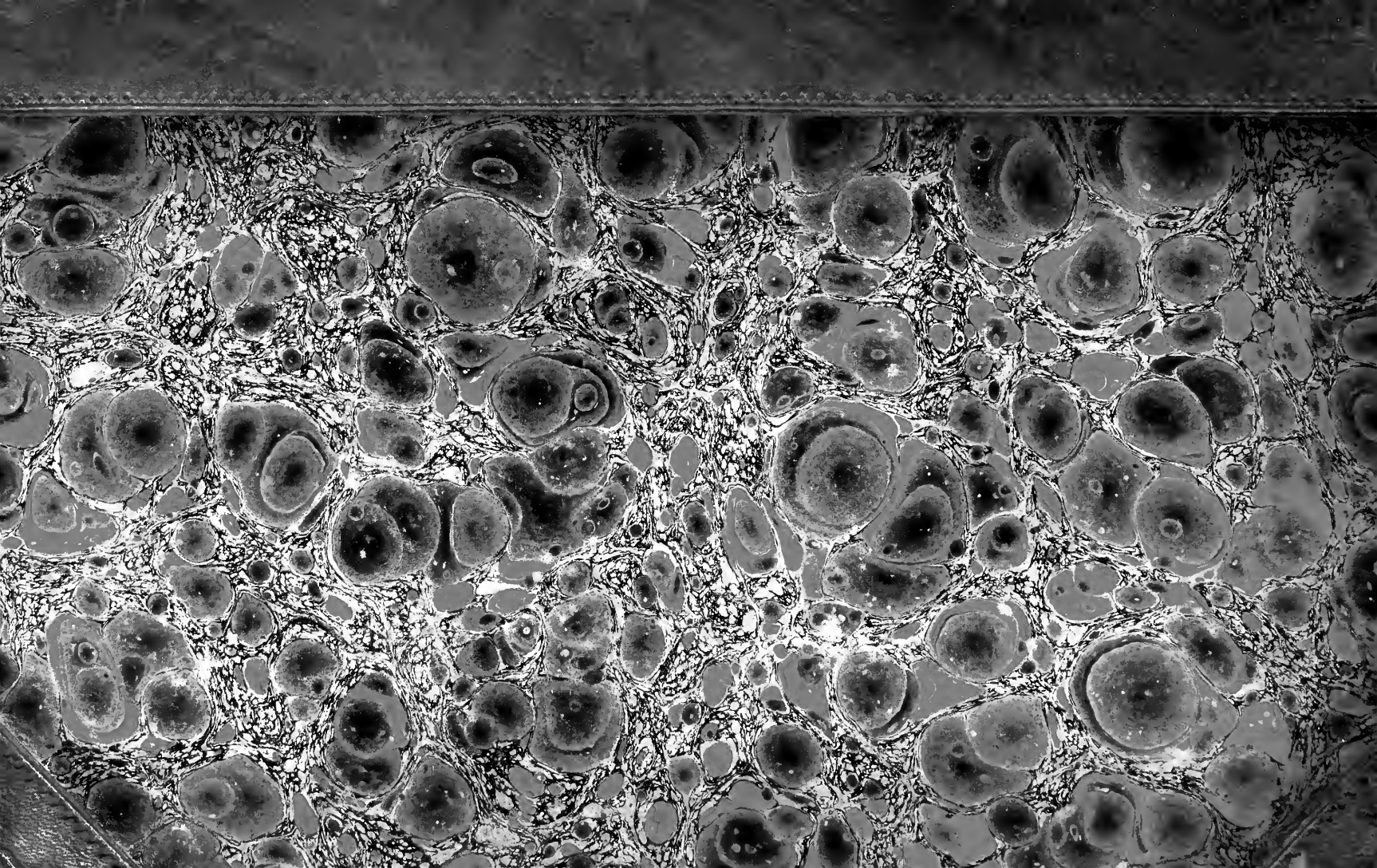


HINTS

ON

Medical Jurisprudence,

ADAPTED AND INTENDED FOR THE USE

OF

THOSE ENGAGED IN JUDICIAL AND MAGISTERIAL DUTIES

IN

BRITISH INDIA.

BY

C. R. BAYNES, ESQ.,

CIVIL AND SESSION JUDGE OF MADURA

MADRAS:

PRINTED AND PUBLISHED BY MESSRS. PHAROAH AND CO.

ATHENÆUM PRESS—MOUNT ROAD.

1854.

PREFACE.

Among the difficulties which surround Judicial functionaries in India, the absence of that aid which Medical Science affords to the Criminal Courts of Europe is most painfully felt. From the very nature of things and circumstances, such is very rarely obtainable here; and the public officer must rely chiefly on himself, for noting, and duly appreciating, those physical features of the case which tend to demonstrate guilt, or exculpate innocence. In order to fit himself in any degree for such duty, and as far as practicable, extend to this country the advantages of European knowledge in these particulars, he is thrown upon the study of lengthy treatises, not one-tenth of which can, at present at all events, have practical application in this country, to the waste of his already over occupied time, and to the obscuring and perplexing of the few principles and facts which may be made really useful even *now*—and when known and understood, lead to the general advancement of the science of Medical Jurisprudence.

With a view to remove these difficulties, and facilitate the acquirement of so much of the science as experience has shown me may be brought into practical use in our Courts, I have extracted from one of the best and most recent Works on the subject,* such matter as seemed within the scope of my intention, adapting it as far as possible to the circumstance of this country; and I hope it will be found that I

* Medical Jurisprudence by Alfred Taylor; Lecturer on Medical Jurisprudence and Chemistry in Guy's Hospital, London.

have so arranged the various subjects that they can be conveniently studied and referred to.

My object has been not to make a *large book for reference*, but a *small one for perusal and re-perusal*, so that the contents may be impressed on the mind for practical use. I have also had much in view the native officials, among whom the knowledge of English is so rapidly increasing, and many of whom will I trust be enabled to understand and profit by the compilation: a circumstance which will excuse the elementary nature of the work in the eyes of those whose knowledge and experience may render it of little use to themselves individually.

MADURA,
March 1854.

CONTENTS.

BOOK I.

Poisoning.

BOOK II.

Wounding.

BOOK III.

Drowning, Hanging, Strangulation, Suffocation, Smothering, and Starvation.

BOOK IV.

Rape.—Abortion.

Page.

BOOK V.

Insanity.—Unsoundness of mind.

BOOK I.

POISONING.

CHAPTER I.

DEFINITION—MODES OF ACTION.

1. Though such definition may not be considered scientifically accurate, the Law regards as a Poison any substance capable of injuring the health of an individual; it is of little consequence, so far as the responsibility of a poisoner is concerned, whether its action on the body be of a chemical or mechanical nature. If a substance criminally administered destroy life, or be of a nature calculated to do so, it is regarded as an act of poisoning. Thus by the English Law it is a capital felony under I. Victoria, C. 85, Sec. 2, "to administer or cause to be taken, by any person, any poison, *or other destructive thing*, with intent to commit murder," and though poisoning is not included in the five-fold definition of Culpable Homicide given by the Mahomedan Law, it is expressly declared to be Murder by Section X., Regulation VIII. of 1802, which also places in the same category wilful Homicide by whatever means or in whatever manner effected, and thus includes both chemical and mechanical poisoning. "Administering poison with intent to kill" or "attempting so to do," would be declared by the Mahomedan Law to be acts subjecting the perpetrator to "discretionary punishment" which may be awarded by the Session Courts under Clause 7, Section II.,

Regulation XV. of 1803, or by the Foujdaree Udalut under Clause 3, Section VII., Regulation XV. of 1803.

2. With respect to the action of poisons it must be borne in mind that habitual use diminishes the effect of certain poisons, as opium, arsenic, or mercury; while some constitutions are found to be much more affected by them than others.

Again, certain substances generally reputed harmless, and indeed used as articles of food, are observed to affect some persons like poisons, as pork, and some kinds of shell-fish. Such peculiarity of constitution, or "*idiosyncrasy*" is of great importance in a medico legal view, when symptoms resembling those of poisoning follow a meal on a particular kind of food. In such a case, without a knowledge of this peculiar condition, effects may be hastily attributed to poison, which are really due to another cause.

CHAPTER II.

CLASSIFICATION OF POISONS.

1. Poisons may be divided into three classes according to their mode of action on the system, namely,

Irritants,
Narcotics,
Narcotico-Irritants.

Irritants for the most part belong to the mineral kingdom; a few are derived from the animal and vegetable, but these are not often employed criminally. They occasion violent vomiting and purging, accompanied or followed by intense pain in the abdomen. The peculiar effects of the poison are manifested chiefly on the stomach and intestines, which, as

their name implies, they irritate and inflame; many substances belonging to this class of poisons possess corrosive properties; such as the strong mineral acids, caustic alkalies, corrosive sublimate, and others; these in the act of swallowing are commonly accompanied by an acrid or burning taste extending from the mouth down the œsophagus to the stomach; some irritants however do not possess any corrosive action.

Narcotic poisons have their operation confined to the brain and spinal marrow. Immediately, or some time after swallowing, the patient suffers from head-ache, vertigo, paralysis, stupor, lock-jaw. They have no acrid or burning taste, and very few give rise to vomiting or diarrhœa. The narcotics are few in number, and belong to the vegetable kingdom.

Narcotic irritants have, as their name implies, a compound action; the irritant symptoms arise in the first instance, and are followed by those of the narcotic; this class of poisons is very numerous, embracing a large number of well known vegetable substances as nox vomica, monkshood, poisonous fungi, &c.

NOTE.—It is evident how greatly the knowledge of these symptoms may aid a Judicial Officer in appreciating the extraordinary descriptions and accounts so frequently tendered to him as evidence, by what is termed a "Native Doctor:" as well as in cross-examining the witnesses who profess to depose to the facts connected with the case.

CHAPTER III.

HINTS FOR THE INVESTIGATION OF CASES OF POISONING.

The following points and circumstances should as far as practicable, be attended to and noted by any one under whose view a case of supposed poisoning may happen to fall.

1st. The time of the symptoms occurring and their nature.

2nd. How long after taking food or medicine did they appear.

3d. Did they intermit, or continue without mitigation till death.

4th. Had the patient any previous illness.

5th. Secure any portion of the food or medicine, which may be suspected to contain the poison, or some of the vomited matters from the stomach.

6th. Ascertain and note the exact time of death so as to show how long the person survived after taking the supposed poison.

7th. Observe the attitude and position of the body.

8th. Note down in their own words all explanations voluntarily made by parties present, or who are supposed to be concerned in the suspected poisoning.

9th. Observe all surrounding objects; any bottles, papers, weapons, or spilled liquids lying about should be collected and preserved.

10th. Note the external appearances of the body; whether natural or not, the state of the countenance, marks of violence, blood, &c.

11th. If found dead, endeavour to ascertain when last seen alive.

12th. Note all circumstances leading to a suspicion of murder or suicide.

NOTE.—Although a Court in India has not the advantage of having evidence on these points spontaneously laid before it by individuals accustomed to collect it, and aware of its importance, it may often happen that many of the particulars here specified may be ascertained by careful examination, and that too perhaps with greater truth from the ignorance of the deponents preventing their seeing the drift of the questions put to them: while answers inconsistent with each other and probabilities, may either tend to confirm suspicions of guilt, or point to apparently trifling circumstances conclusive of innocence.

CHAPTER IV.

EVIDENCE OF POISONING IN THE LIVING SUBJECT.

This enquiry becomes necessary when a person is charged with having administered poison with intent to murder, but from the effects of which the patient ultimately recovers. In such cases it is obvious, greater difficulties and doubts are likely to arise than in fatal cases, as the symptoms and circumstances have to be examined and distinguished from the disease.

The following broad general rules should be borne in mind in such cases.

1. *In poisoning, the symptoms appear suddenly, while the individual is in health.*

Most poisons, when taken in the large doses in which they are usually administered with criminal intent, speedily produce serious effects, their operation cannot be suspended: cases of what is called "slow poisoning" may occur, but they are not common.

2. *In poisoning, the symptoms appear soon after some kind of food or medicine has been taken.*

This is by far the most important character to be noted in cases of poisoning in the living body. Most poisons begin to operate within an hour at farthest after being taken, and it follows therefore that supposing the symptoms under consideration to depend on poison, it must most probably have been swallowed either in food or medicine from half an hour to an hour previously: supposing many hours to have passed since food or medicine was taken by the patient, without any effect ensuing, then it becomes very probable that the symptoms are due to some other cause, and not to poison.

When symptoms resembling those of poisoning follow the taking of food or medicine, there is always great room for suspicion; but caution should be observed in such cases, since the most extraordinary coincidences sometimes present themselves.

In such cases the vulgar always suspect poison, but it is the duty of a medical jurist to guard against the encouragement of suspicion until he has strong grounds to believe it well founded.

3. *In poisoning, when several partake at the same time of the same food or medicine mixed with poison, all suffer from similar symptoms.*

In general much reliance may be placed upon this characteristic, because it is very improbable that any common cause of disease should suddenly attack with violent and alarming symptoms, many healthy persons at the same time, and within a short period after having partaken of food together: but though this is undoubtedly true as a general principle, mistakes may occasionally be made, even under these circumstances. Thus in London in 1832, during the prevalence of the cholera, four members of a family living in a state of great domestic unhappiness sat down to dinner in apparently good health: some time after the meal, the father, mother and daughter were suddenly seized with violent vomiting and purging. Two of the parties died. The son who was known to have borne ill will against his father and mother, and who suffered no symptoms on this occasion, was accused of having poisoned them; a strict investigation took place, and it was clearly proved that they had died of cholera.

NOTE.—The sudden and violent diseases which prevail in India, especially that here alluded to, may it is easy to imagine give rise to similarly erroneous suspicions, nor can it be regarded as improbable that the ingenuity of malice, of which our Courts present such numerous and fearful instances, may take advantage of such cases, to found upon them some of those false accusations which are constantly made in this country, and supported with an amount of deliberate and unrelenting perjury which it is to be hoped for the credit of human nature is rarely to be met with elsewhere.

4. *The nature of the symptoms.*

In cases of poisoning the symptoms are commonly well marked, and have a peculiar character; while those of disease are less certain and more likely to create embarrassment, so that disease is much more likely to be taken for poisoning, than poisoning for disease.

5. *The discovery of poison in the food taken, or in the matters vomited.*

One of the best proofs of poisoning in the living subject is the detection of poison by chemical analysis, either in the food taken by the person laboring under its effects, or in the matters vomited. The evidence is of course more satisfactory where the poison is discovered in the matters vomited, than in the food, because this will show that poison has really been taken, and will readily account for the symptoms. If these be not forthcoming the food of which the party may have partaken should be examined; should the results in both cases be negative, the probability is that the symptoms may have been due to disease.

In investigating a case of poisoning in the living subject, it must be remembered that poisoning is sometimes feigned, and at others imputed. It is very easy for an artful person to put poison into food and to accuse another of having administered it, or to introduce poison into matter vomited, or discharged from the bowels; but it would require a good knowledge of the effects of poisons to feign a series of *symptoms* which would impose upon a person at all acquainted with the subject. If poison be discovered in food, other circumstances and enquiries must develop an alleged attempt at administration, but if the poison have been actually administered, then we should have the usual symptoms. The detection of poison in the matters vomited from the stomach of

course affords no decisive proof that it has been swallowed except the usual symptoms of poisoning be unmistakeably present, in which case there can be no feigning: or the matters actually vomited in a *clean* vessel, in the presence of some person on whose testimony perfect reliance may be placed.

CHAPTER V.

EVIDENCE OF POISONING IN THE DEAD SUBJECT.

If the person supposed to be poisoned be dead, all the particulars mentioned as indicative of poisoning in the living subject should also be attended to and ascertained; and the additional evidence to be derived from the death of the person may be considered under the following heads.

I. *The time at which death takes place after the first occurrence of the symptoms.*

The most common poisons, when taken in fatal doses, produce their effects within certain periods of time. By attention to this point a charge of poisoning may in some cases be negatived, and in others an opinion formed as to the kind of poison taken. Thus a large dose of prussic acid will destroy life with the rapidity of lightning. Oxalic acid in a dose of from $\frac{1}{2}$ to 1 ounce, in from ten minutes to an hour. The mineral acids in poisonous doses in from 18 to 24 hours. Arsenic, from 18 hours to 3 or 4 days, though it has been known to destroy life in 2 hours. Opium, either as a solid, or in the shape of laudanum, generally proves fatal in from 6 to 12 hours, but has been known to destroy life in three. These are only the average periods deduced from experience, but they may be useful as suggesting to a Court of Justice the possibility of a party dying either too rapidly, or too

slowly, to be consistent with the administration of a particular poison. Thus cases of sudden death, are frequently by the ignorant attributed to poison, whereas in fact the very suddenness renders it improbable. There are few poisons, and none except prussic acid common, which act so immediately as some diseases, such as apoplexy, or affections of the heart.

2. *Evidence from post mortem appearances.*

One of the chief means of determining whether a person has died from poison, is an examination of the body after death.

As to external appearances, there are none upon which we can safely rely. It was formerly supposed that the bodies of persons who were poisoned putrified more readily than those of others dying from natural disease, and evidence for or against poisoning was at one time drawn from the external appearances of the body. This is now known to be an error, the bodies of persons poisoned are not more rapidly decomposed " ceteris paribus" than those of others who have died from any cause whatever. The appearances observed in the opening and examination of the body by competent medical men are alone entitled to weight; and even in such cases the appearances produced by the action of poison are so similar to those resulting from disease, that there is danger of confounding them, and drawing erroneous inferences, were it not for the satisfactory and conclusive tests which science is able to apply, to the suspicions thus excited by means of chemical analysis.

NOTE.—It is not often that the Indian Court is assisted in this respect by any other evidence than that of a Native practitioner who in common with his countrymen attaches great weight to these fallacious signs, the only ones indeed of which he thinks, or is capable of noting; and these remarks will serve to point to the necessity of caution in attending to them.

In those rare cases in which the evidence of an European medical witness is forthcoming, the matter under investigation will probably be elucidated by the facts of autopsical examination, confirmed and corroborated by the result of chemical analysis.

CHAPTER VI.

EVIDENCE OF POISONING FROM CHEMICAL ANALYSIS.

This description of evidence is always deemed the most satisfactory, and is most earnestly sought for by Judicial Authorities; it *demonstrates* the cause of death, while symptoms, and post mortem appearances, are fallible criteria.

NOTE.—For such evidence we are in this country if possible, more dependant on *European* professional skill, than even for that resulting from a post mortem examination, but on the other hand we have better chances of obtaining it. The remaining portion of a fluid or substance which can be proved to have been swallowed, and which may be supposed to have produced deleterious effects, or a portion of the stomach, or matters vomited, may often be procured, and reserved for chemical analysis. Any remarks upon the conduct of which would be foreign to the intentions of this work: the duty of the Indian Magistrate must necessarily be limited to procuring such when opportunity offers, and impressing upon his subordinates the importance of collecting and securing the materials for such investigation.

CHAPTER VII.

WAS THE POISON THE CAUSE OF DEATH?

This question, which, in countries where science is at hand to return a satisfactory answer, is one of much importance, and gives rise to many interesting enquiries and researches, can seldom be a subject of discussion in this country. It is held necessary in Europe not only to show that poison has been administered, but that the death has been actually caused by it, that the deceased was not at the time of taking it laboring under any diseases which would or might have caused death independently of the poison. In such cases it is evident that the greatest professional skill can alone pronounce an authoritative opinion; in the absence of which I do not see that our Courts can possibly expect to prove more than that a poison was administered in sufficient quantity to cause death; that the deceased was not known or supposed to be laboring under

any fatal malady, and that death ensued at a time, and under circumstances which might be expected from the substance taken, nor does it appear that substantial justice would be likely to suffer from the want of greater refinement. If a prisoner be proved to have administered a poison in sufficient quantity, and with intent to kill, his crime towards the public is complete; no principle of justice seems to require that he should be saved from its consequences by the fortuitous coincidence of the simultaneous bursting of an abscess, by sudden hemorrhage, or any other cause, naturally anticipating the ordinary result of the poison.

CHAPTER VIII.

CONCLUDING REMARKS ON POISONING IN GENERAL.

Though on a trial for poisoning such investigation and enquiries as have been mentioned, may prove that death was certainly due to poison, moral and circumstantial evidence can alone show that the accused was the party who gave it; this proof often fails, the fact of administration cannot be brought home to the accused, and the case falls to the ground. Moral and circumstantial proofs are, it is true, sometimes very closely mixed up with the physical facts of the case, but in determining whether poison has been given or not, we must however be cautious not to base an opinion on such proofs. The question as to the presence and use of any poison should be determined, irrespectively of the moral and circumstantial proofs tending to show its administration by a particular party, and the intent of such person.

Again, supposing death by poisoning to have been clearly proved, it may be necessary to discover whether the act was the result of accident, suicide or homicide. This is a question

also for the Court to determine, but its solution often depends upon a proper appreciation of physical circumstances. Suicide or murder may sometimes be inferred, from the known or ascertained effects of certain poisons. Some speedily annihilate volition, and the power of locomotion, and therefore render it a question of serious difficulty, whether particular acts could have been performed after the deceased had taken the poison; on the answer to this may depend the acquittal or conviction of a person charged with the crime.

There is one peculiarity in the legal consequences of the act of killing by poison, namely, that the act itself is considered in Law to be evidence of malice. If a poison be knowingly administered to another and destroy life, the crime is said never to be reduced to manslaughter, whatever may have been the provocation which the party administering may have received from the person whose life he has thus taken. It is not necessary therefore that any particular enmity should be proved to have existed between the prisoner and deceased, although this often weighs as a strong moral circumstance against the former. When a man is killed by a wound in a quarrel, the Law will sometimes find an excuse for the act, in the heat and passionate excitement under which the aggressor was laboring at the time; but if he avenge himself by administering poison to his adversary, there is no excuse for the act, since it evinces cool, reflecting and deep-rooted malice. That death by poison should ever be held to be manslaughter only, it must therefore be shown that the substance was administered to, or laid in the way of the deceased by mistake, or with innocent intention; and the proof of this always lies with the accused, the Law inferring that malice exists until the contrary appears from the evidence; whether malice exists or not, is however in general soon made evident from the statement for the prosecution.

BOOK II.

WOUNDING.

CHAPTER I.

WHAT IS A WOUND?

Inability satisfactorily and precisely to answer this apparently simple question not unfrequently gives rise in English Courts to difficulties which we avoid by the practical adoption of a comprehensive, and certainly most rational definition, viz., that a wound includes every description of personal injury arising from whatever cause applied externally. Cuts, stabs, fractures, contusions, burns, &c., are all treated by the Courts of this country as wounds.

CHAPTER II.

CLASSIFICATION AND DESCRIPTION OF WOUNDS.

The practice of our Courts regards wounds, as to their effects, under three heads, viz., 1st. Mortal; 2d. Severe; 3d. Those not coming within the other denominations.

The first will demand most attention, and it will be convenient to postpone the consideration of them until what is necessary has been said of the other two classes of wounds.

By " severe" would seem to be understood such wounds as would in an English Court be described as " dangerous to life," or " producing grievous bodily harm," as well also as all wounds *apparently* extensive and serious, such as in popular judgment would be thought serious injuries ; even though a medical man might be able to depose that they were not dangerous to life, or calculated to produce any grievous or permanent bodily harm or inconvenience.

Wounds " not severe," are such as do not fall within the above description, or which, to take another standard, the Criminal Judge or Magistrate, may consider can be adequately and properly punished within the extent of the penalties prescribed in Section VII., Regulation X. of 1816.

The above observations have reference of course merely to the character of the wound, as a wound, without regard to the intention of the inflictor; a question in which no medical or scientific considerations are involved, and according to the determination of which, it is evident the moral classification of the crime, may differ materially in degree, from the physical classification of the wounds: a severe, or even trifling injury, inflicted in the attempt or with design to murder, may justly incur the penalties due to the intention rather than the act; while a deficiency of malicious design may mitigate the criminality of the most severe injuries.

These remarks may suffice in respect of wounds not producing fatal result, and we may proceed to consider some of the numerous medico legal questions which may, and do, constantly arise in cases where the injury inflicted has caused, or is supposed to have caused, death.

CHAPTER III.

WAS THE WOUND INFLICTED BEFORE OR AFTER DEATH?

Important consequences may chance to depend on a solution of this question in a country where false accusations are so fearfully common.

The following indications will assist in determining it.

1. *Characters of a Wound inflicted during life.*

If we find about the wound marks of gangrene, the effusion of adhesive or purulent matter, or if the edges be swollen and enlarged, and cicatrization have commenced, it is not only certain that it must have been inflicted before death, but the individual must have lived some time after its infliction.

The principal characters of a wound inflicted during life are:

1. Eversion of the edges, owing to vital elasticity of the skin.
2. Copious bleeding, frequently of arterial character.
3. The presence of coagula in the wound, and the blood coagulating which has fallen on surrounding objects.

2. *Characters of a Wound made after death.*

If the wound on the dead body be not made until some hours have elapsed from the time of death, it cannot be easily mistaken for one produced during life. Either no blood is effused, or it is of a venous character. The blood is commonly liquid, not coagulating as it falls on surrounding bodies, like that poured out of a vital wound. The edges are soft, yielding, and destitute of elasticity, and therefore in close approxi-

mation. The chief characters of a post mortem wound, are therefore:

1. Absence of copious hemorrhage.
2. What does occur is venous.
3. The edges of the wound are close, not everted.
4. There is an absence of coagula.

But it may happen that the wound was inflicted soon after the breath had left the body, and while it was yet warm and the distinction between a wound then made, and one made during life, is of course not well marked, as in wounds, inflicted at a later period after death.

It is necessary to remember that when an incised wound is the cause of death, the person either dies immediately, in which case there is a most abundant hemorrhage from the wounded organ, or some large vessel: or he dies after some time, in which case as the wound continues to bleed during the time that he survives, the longer he lives the more copious will be the effusion of blood; but in a wound inflicted even soon *after* death, and while the body is warm, unless the weapon injure one of the large veins, the hemorrhage is always slight; so that the quantity of blood lost may assist in determining whether the wound was made during life or after death.

When the body has been moved, and all marks of blood effaced by washing, &c., the time at which the wound was actually inflicted must be deduced from other circumstances.

In the case of Greenacre, who was tried in 1837, for the murder and mutilation of a female, the head of the deceased had been severed from the body, and the question was, whether this severance had taken place during life or after death. The prisoner alleged in his defence, that it was after death; but the medical evidence went to establish that the head

must have been cut off, while the woman was living, but probably after she had been rendered insensible by a blow on that part, the marks of which were plainly visible. This medical opinion was founded on two circumstances, the muscles of the neck were retracted, and the head was completely drained of its blood; showing that a most copious and abundant flow must have ensued at the time of separation, and therefore indicating that the circulation was probably going on at that time. On cutting off a head *after death*, a small quantity of blood may escape from the jugular veins; but this soon ceases; and the quantity lost is insufficient to affect materially the contents of the cerebral vessels.

It is a considerable step in evidence when we are able to prove that an apparently mortal wound on a body must have been inflicted *either during life or immediately after death*, for it can scarcely be supposed, that in any case, calling for criminal investigation, any one but a murderer would think of inflicting upon a body *immediately after death*, a wound which would assuredly have produced fatal effects had the same person received it while living: so soon as such an opinion can be safely formed, circumstantial evidence will often determine, what may be, *medically* speaking, a matter of uncertainty.

3. *Absence or presence of Hemorrhage.*

The copious effusion of blood has been set down as a well marked character of a severe wound received during life; but this observation applies chiefly to incised wounds. Lacerated and contused wounds of a very severe kind, are not often accompanied by much hemorrhage, even when a large blood vessel happens to be implicated. It is well known, that a whole member has been torn from the trunk, and little blood lost; but in such cases, coagula are commonly found adhering to the separated parts, a character which indicates either a vital, or a very recent post mortem origin.

Contusions and contused wounds are commonly accompanied by discoloration of the surrounding skin, or bruise.

NOTE.—A bruise in the white subject passes through successive shades of colour before its final disappearance: at first livid or blue, it shortly becomes of a violet tinge, and then assumes shades of green, yellow or lemon; and from these indications an opinion may be formed of the probable time at which the injury was inflicted. In the Natives of this country these changes are, I believe, scarcely, if at all, perceptible.

Extravasation of blood must of course take place, but the effects will be visible only as the skin is more or less fair: and further the appearances as mentioned above would naturally be themselves modified by the degrees of colour in the skin. If any thing be known on this subject to our medical practitioners they would render an acceptable service to medical jurisprudence by giving it publicity.

CHAPTER IV.

BY WHAT MEANS WAS THE WOUND INFLICTED, AND IF BY A WEAPON, BY WHAT KIND OF WEAPON?

A weapon with which the wound is supposed or said to have been inflicted, is frequently laid before a Court, and the fact may be proved by evidence wholly independent of medical considerations, which however in the absence of such proof, or in corroboration of it, may be of use to the Court in coming to a conclusion on the point. It should be remembered however, that such inferences can never of themselves establish the fact that the particular weapon was actually employed. All that can be pronounced with certainty is, that the wound was caused by that weapon, or by one similar. But in many cases no weapon is discovered, and whether one has been employed or not, can only be ascertained by examination of the wound and consideration of its nature.

The question is of much importance in the eyes of justice since the use of a weapon often implies malice, and the degree of it: and in all cases betrays a greater desire to injure the party assailed, than the mere employment of manual force. Some wounds at once indicate that they must have been produced by weapons. This is the case with cuts or stabs. In incised wounds, the sharpness of the instrument may be

inferred by the cleanness and regularity with which the edges are cut: in stabs also, the form and depth of the wound will often indicate the kind of weapon employed. Stabs sometimes have the characters of incised punctures, one or both extremities of the wound being cleanly cut, according to whether the weapon was single or double edged. Such stabs, owing to the elasticity of the skin, are apparently smaller than the weapon, a point to be remembered in instituting a comparison between the size of the wound and the instrument: when a stab has traversed the body the entrance aperture is commonly larger than the aperture of exit; and its edges, contrary to what might be supposed, are sometimes everted, owing to the rapid withdrawal of the instrument. That facts of this kind should be available as evidence, it is necessary that the body should be seen soon after the receipt of the wound, and before there has been any interference with it.

It is important to notice, whether the edges of a punctured wound be lacerated and irregular, or incised, because it may be alleged in the defence, that the wound was produced by a fall, or some substance capable of producing an injury somewhat resembling it.

Lacerated wounds do not in general present more difficulty with regard to their origin, than those which are incised or punctured. The means which produced the laceration, are commonly well indicated by the appearance of the wound. These injuries are generally the result of accident.

We can rarely say with certainty, that a contused wound of the head must have been produced by a weapon, and not by a fall. Some circumstances, however, may occasionally enable us to form an opinion on this point.

If there be contused wounds on several parts of the head, with copious effusion of blood beneath the skin, the presump-

tion is, that a weapon must have been used. If the marks of violence be on the vertex, it is highly probable that they have been caused by a weapon; since this is not commonly a part which can be injured by a fall.

We should be cautious in listening to the statements of others, that a weapon has been used, unless the wound itself bear about it such characters as to leave that fact indisputable. During a scuffle the prosecutor may be easily deceived as to the way in which the accused party inflicted a wound upon him, or a worse motive may sometimes exist for imputing to an assailant the use of a weapon during a quarrel. In such cases we should rather trust to the appearance of the wound for proof of the use of a weapon, than to the account given by interested parties.

NOTE.—The *incredible* minuteness with which in our Courts the Prosecutor and his Witnesses almost invariably detail the particulars of an assault or affray, e. g. "*the First Prisoner standing to the south struck me one blow on the right arm with a stick two cubits long and two fingers thick*, the second prisoner kicked me with his right foot on my left leg," &c., will occur to the mind of every Indian functionary.

CHAPTER V.

HOW, OR BY WHOM WAS THE WOUND INFLICTED?

Supposing a wound proved to have been caused before death, it will next be proper to enquire whether it was the result of suicide, homicide, or accident.

The points to which attention must be directed in order to determine this, are its situation, nature and extent, and direction.

1*st.* *Situation.*

It is a general principle, in which most medical jurists seem to agree, that wounds, inflicted by a suicide, are usual-

ly, confined to the anterior, or lateral parts of the body. The throat and chest are most commonly selected where cutting instruments are employed; while the chest, especially in the region of the heart, the mouth, the orbit, and the temples, are the spots generally chosen for the perpetration of suicide by fire-arms. But it is obvious that any of these parts may be also selected by a murderer, with the special design of simulating a suicidal attempt, therefore the mere situation of a wound does not suffice to establish the fact of suicide. It has been thought that if the weapon has been introduced into the deceased's mouth, and there discharged, we may almost take it for granted, that it has not been done by another; but this inference seems rather too hastily drawn; because it is quite within the range of possibility, that a cool and deliberate assassin, may purposely resort to this method of destroying his victim, in order to conceal his crime. In suicidal wounds from fire-arms, a discoloration by powder of the fingers of the hand which discharged the weapon, is sometimes observed; this also has been looked upon as evidence of suicide, under doubtful circumstances; but a similar objection, though not with equal force, might be made to its admission. Some have regarded it as fully established in legal evidence, that when wounds exist in the posterior part of the body, it is a positive proof that they have not been self-inflicted. This situation is certainly such that we may consider it difficult for the suicide to attain; but, as Orfila observes that it is not the situation, so much as the direction of the wound, which here furnishes evidence against the presumption of suicide. A wound, traversing the body from behind to before in a direct line, is not very likely to have resulted from a suicidal attempt, at least it must be obvious that it would require more preparation and contrivance on the part of a self-murderer, so to arrange matters, that such a wound

should be produced, than we can conceive him to possess at the moment of attempting his life. Besides, his object is to destroy himself as quickly and as surely as circumstances will permit; he is therefore, not likely to adopt complicated and uncertain means for carrying this design into execution. Nevertheless, we must not always expect to find suicidal wounds in, what a Surgeon would pronounce to be, the most proper situation to produce instant destruction. A want of knowledge, or a want of resolution on the part of a suicide, or the accidental slipping of the hand, will often cause a wound in a part where we might least expect to find it. Wounds which result from accident or suicide are generally in exposed parts of the body. A wound in a concealed or not easily accessible part, is presumptive of murder; because this kind of injury could only have resulted from the *deliberate* use of a weapon. Suicidal wounds, are however, sometimes found in the most unusual situations.

In regard to situation it has been remarked that there is no wound which a suicide is capable of inflicting on himself, which may not be produced by a murderer; but there are many wounds inflicted by a murderer, which, from their situation and other circumstances, a suicide would be incapable of producing on his own person. We cannot always obtain positive certainty on this point; the facts will often only allow us to conclude with different degrees of probability. The situation of a wound sometimes serves to show whether it be of an accidental nature or not, a point often alleged in defence. All accidental wounds must exist on those parts of the body which are exposed. Some wounds however, forbid the supposition of accident even when exposed, as deeply incised wounds of the throat, and gunshot wounds of the mouth and temples.

2nd. Nature and extent of the Wound.

Generally speaking, the wound met with on the body of a suicide, where fire arms have not been used, is incised or punctured. Contused wounds are rarely seen in cases of suicide, because in producing them there is not that certainty of destroying life which a self-murderer commonly looks to. There are of course exceptions to this remark, as where, for instance, a man precipitates himself from any considerable height, and becomes wounded in the fall. Circumstantial evidence will, however, rarely fail to clear up a case of this description. Greater difficulty may exist where life is destroyed by a contused wound, voluntarily inflicted. A case is related by a German author, in which a man first attempted to destroy himself by running with his head against a wall; and not having succeeded in this attempt, he struck himself repeatedly on the forehead with a cleaver. By this means he produced such violent injury to the brain, that death soon followed. The man was seen to commit the crime by several witnesses; had this not been the case, the nature of the wound was such as must have excited a suspicion that it had been inflicted by another, and that the man had been murdered.

A close attention to wounds made by cutting instruments, will sometimes lead to the development of cases, rendered doubtful from the circumstances under which the dead body of a wounded person is found. A few years since, the body of a respectable farmer was found lying on the high road in one of the midland counties of England. The throat was severely cut, and he had evidently died from the considerable hemorrhage which had taken place. A bloody knife was discovered at some distance from the body, and this, together with the circumstance of the pockets of the deceased having been rifled, led to a suspicion of murder. The suspicion was confirmed when the wound in the throat was examined by a

Surgeon; it was cut, not as is usual in suicides, by carrying the cutting instrument from before, backwards, but as the throats of sheep are cut, when slaughtered by a butcher. The knife had been passed in deeply under and below the ear, and had been brought out by a semi-circular sweep in front, all the great muscles of the neck, with the œsophagus and trachea, having been divided from behind, *forwards*. The nature of this wound rendered it at once improbable that it could have been self-inflicted; and it further served to detect the murderer, who was soon afterwards discovered. The prisoner, who was proved to have been a butcher, was subsequently tried and convicted for the crime.

The nature of the injury must, in some instances, remove all suspicion of suicide. If a dead body is found with the head separated from the trunk, or the trunk separated in two parts, and the wounds are proved to have been made during life, there cannot be a doubt of the act having been homicidal. These are wounds which by their natures at once remove all suspicion of suicide.

It is necessary to bear in mind, that maniacs when they commit suicide, often inflict upon themselves wounds of a very extraordinary nature, such as would at first view, lead to a suspicion that they had been produced by the hand of a murderer, and therefore, the rules which have been laid down for distinguishing homicidal from suicidal wounds, must be very guardedly applied to the cases of those individuals, who are known to have labored under insanity. Perhaps one of the most remarkable cases of this kind, is that recorded by Mr. Tarleton (Medical Gazette, XXIV. 276.)

A gentleman was found lying in a state of insensibility in the kitchen of his house, with a cleaver by his side. On examining the head, upwards of thirty wounds were found over the posterior portion of the occipital bone. The wounds, many

of which were superficial, had a horizontal direction from behind forwards. One, however, had removed a portion of the skull from the lamboidal suture, so that the brain had escaped. This person died four days afterwards, but recovered so far as to admit that he had produced the wounds on himself, of which from other circumstances, there was doubt. He was a lunatic.

This is a most unusual way of committing suicide. Had the deceased been found dead on a public highway, thus wounded, the probability is, that a strong suspicion of murder would have arisen. A case of this kind should be borne in mind when we are called upon to decide as to the possibility of certain wounds found on a dead body, having been self-inflicted.

The extent of a wound, by which we are to understand the number and importance of the parts injured, must always in these cases be taken into consideration. It has been somewhat hastily laid down as a rule, that an extensive wound of the throat, involving all the vessels and soft parts of the neck to the vertebral column, could not be inflicted by a suicide. Although in general, suicidal wounds of this part of the body, do not reach far back, or involve the vessels of more than one side, yet we find occasionally that all the soft parts are completely divided to the vertebræ. These are cases, in which perhaps with a firm hand, there is also a most determined purpose of self-destruction.

Incised wounds in the throat are generally set down as presumptive of suicide; but murderers sometimes wound this part for the more effectual purpose of concealing the crime. Circumstances, connected with the form and direction of the wound, often, in such cases, lead to detection; for unless the person attacked, be asleep or intoxicated, resistance is offered, —evidence of which may be obtained by the presence of great

irregularity in the wound, or the marks of other wounds on the deceased. In some instances, it is extremely difficult to say, whether the wound be homicidal or suicidal, the medical facts being equally explicable on either hypothesis.

Regularity in a wound of the throat has been considered to be presumptive of suicide. This was the publicly-expressed opinion of Sir Everard Home, in the well known case of Sellis. The deceased was found lying on a bed, with his throat extensively cut; and the edges of the incision were regular and even. This condition of the wound, it was inferred, repudiated the idea of homicide: but as a general principle, it appears to be a fallacious criterion. A murderer, by surprising his victim from behind, by having others at hand to assist him, or by directing his attack against one who is asleep or intoxicated, or who from age or infirmity, is incapable of offering resistance, may easily produce a very regular and clean incision on the throat. This was observed in the case of Lord William Russell, who was murdered by Courvoisier in 1840. The wound in the throat possessed all that regularity which has been so improperly regarded as characteristic of suicide.

Many, indeed, have taken a directly opposite view to that advocated by Sir E. Home; and have contended, with more plausibility, that the chief character of a suicidal wound in the throat, is great irregularity from want of steadiness in the hand, during the perpetration of suicide. It is by no means unusual in suicides, to find the cut regular at its commencement, and irregular and uneven at its termination, from the loss of blood which attends the first incision; but it is obvious, that a homicidal wound might possess these characters. In short, from the foregoing remarks, we are entitled to say, that regularity or irregularity in an incision in the throat, furnishes no presumptive evidence either of homicide or suicide.

A punctured wound, as by stabbing, is in England more commonly seen in cases of homicide than suicide, where experience shows that few individuals, excepting lunatics, commit suicide by stabbing themselves; on the Continent of Europe however, *and in India*, suicidal stabs are very frequent. The nature and extent of a wound, or other injuries on a person, will sometimes allow us to distinguish very positively, accident from homicide; personal injuries may be such, that they could not possibly have had a suicidal, or accidental origin.

In a certain case it was shown by evidence, that seven ribs were fractured on one side of the thorax of the deceased, and five on the other. The person charged with murder, alleged in defence, that he had merely struck the deceased a slight blow, and that the ribs had become broken by an accidental fall subsequently. A medical witness, however, satisfied the Court, that the fall as described by the prisoner, was inadequate to the production of such extensive violence; and that even had the deceased fallen on one side, this would not account for the fracture of the ribs on the other. When therefore, we find in a dead body, severe injuries referred to a fall, we should search the whole of the body carefully for marks of violence. The insides of the arms or thighs might present similar marks of injury, which could not possibly be explained on the supposition of an accidental fall. Severe contusions on both sides of the body, or anteriorly and posteriorly, commonly indicate homicidal violence.

NOTE.—These observations should be borne in mind when considering or investigating the cases of persons said to have fallen into wells accidentally or suicidally, which are so frequent in this country.

3d. The direction of a Wound.

It has been remarked that in most suicidal wounds which affect the *throat*, the direction of the cut is commonly from left to right, either transversely, or passing obliquely from above downwards: in suicidal *stabs and punctured wounds*, the

direction is commonly from right to left, and from above downwards. In left handed persons the direction would of course, be precisely the reverse, but it must be remembered that some persons use either hand with equal facility. Suicidal wounds are, however, subject to such variation in extent and direction, that it is scarcely possible to generalize with respect to them. Nevertheless attention to these minutiæ may sometimes be of real assistance to the enquirer, especially where the body has not been moved from its position. It is recommended that the instrument with which the wound has been inflicted, should be placed in either hand of the deceased, and the extremity moved towards the wound, to ascertain if the direction of the wound could correspond to it in any position. It might happen that neither arm would reach the wounded part, so as to inflict a wound of the particular direction observed; this may be the case in wounds situated on the back.

It is obvious that if a murderer makes an incised wound in the throat from behind, the direction will be the same as that commonly observed in cases of suicide. Again, if the person attacked be powerless, the wound may be deliberately made, so as to simulate a suicidal act; indeed murderers would seldom attack the throat, but with the design of simulating an act of suicide. A homicidal stab, may also take the same direction as one which is suicidal, but this would be confined to those cases, where the murderer was placed behind or on the side of his victim. If in front of the person whom he attacks, the direction would probably be from left to right, but in suicide, where the right hand is commonly used, it is the reverse. All oblique wounds passing from above downwards, are common to homicide, and suicide; but those which take an oblique course from below upwards, are generally indicative of homicide; it is at least extremely rare, that a suicide, unless

a lunatic, thus uses a weapon. Homicidal incisions, especially in the throat, are often prolonged below and behind the skin forming the angles of the wound, deeply into the soft parts. Those which are suicidal, rarely possess this character; they terminate gradually in a sharp angle, and the skin itself is the furthest point wounded—the weapon is not carried either behind, below, or beneath it. Exceptions to these characters may exist, but in a dark and intricate subject of this nature, we have only these limited rules to guide us. The instrument with which the wound is supposed to have been inflicted, should be adapted to the edges of the incision; its sharpness may be compared with the cleanness and evenness of the cut, and its length with the depth of the incision or stab. It is no uncommon occurrence for a murderer to substitute some instrument, belonging to the deceased or another person, for that which he has himself employed.

Severe incisions on vital parts do not often happen by accident; but severe punctures and stabs affecting vital organs have frequently an accidental origin. These stabs arise generally from falls, while the individual is in the act of running, with a pointed instrument in his hand, or his pocket. There is one character which, when thus produced, they are commonly observed to possess, namely, that their direction is from below upwards. In this way, the truth of a defence may be sometimes tested; as where a prisoner alleges, that the deceased threw himself, or fell upon the weapon. Homicidal stabs may be likewise directed from below upwards, but this is somewhat rare, and not probable, unless an individual be stabbed by an oblique blow while in the recumbent posture.

4th. The presence of several Wounds.

In suicides, commonly one wound only is seen, namely that which has destroyed life; and the presence of several wounds

on a body, or the marks of several attempts around the principal wound, have been considered to furnish presumptive evidence of murder. But it need hardly be observed, that any inferences of this kind must be very cautiously drawn, since not only may a *murderer* destroy his victim by *one* wound, but a *suicide* may inflict *many*, or leave the marks of several attempts, before he succeeds in his purpose.

In incisions on the throat, from ignorance of the situation of vital parts, or from tremulousness, a suicide often leaves one or more incisions of greater or less extent, near that which destroyed him. This is especially the case, when the instrument happens first to lodge on the cartilages of the larynx. The same remark applies to suicidal stabs, when the point of the weapon in being directed against the chest, comes in the first instance in contact with the ribs.

With respect to the throat, many cases might be cited, where two, three, and even six or more incisions, have been made on this part by suicides, before they have destroyed themselves.

In general, suicides when foiled in a first attempt, continue to use the same weapon; but sometimes, after having made a severe incision in the throat, they will shoot themselves, or adopt other measures of self-destruction. These cases can only appear complicated to those, who are unacquainted with the facts relative to self-murder. Neither the presence of several wounds by the same kind of weapon, nor of different wounds by different weapons, can be considered of themselves, to furnish any proof of the act being homicidal. One instance has been already related, in which a lunatic, in committing suicide, inflicted thirty wounds upon his head.

In a case of murder, when many wounds are found on a dead body, it may happen that the situation or direction of *some* will be incompatible with the idea of a suicidal origin.

A married woman was found dead, and there were many wounds upon her body: the husband was suspected of having killed his wife, but he asserted that she had destroyed herself. This defence, however, was shown to be inconsistent with the medical facts, there were eleven wounds (stabs) eight on and about the left side of the thorax, but the others were on the back near the left scapula. It was quite impossible, that these last mentioned wounds could have been produced by the deceased, and there was every reason to suppose that the stabs in front, and at the back, had been inflicted at the same time by the assassin.

When we find on the body of a suicide, several wounds, it generally happens that one only bears about it a mortal character, namely, that which has caused death. On this account, it has been asserted by some medical jurists, that when two mortal wounds are found upon a body, and particularly if one of them be of a stunning or stupifying tendency (*i. e.* affecting the head) they must be considered incompatible with suicide.

An inference of this kind can be applied to those cases only, in which the two wounds, existing on different parts of the body, were likely to prove immediately fatal. It must however be borne in mind, that all suicides do not immediately perish from wounds which are commonly termed mortal; on the contrary, they have often the power to perform acts of volition, and locomotion, which might by some be deemed wholly incompatible with their condition. It is very difficult to say, whether one wound was likely to destroy life so rapidly, as to render it impossible for an individual to have inflicted another upon himself. There are no rules by which, in unknown cases, the instantaneous mortality of wounds, can be accurately determined, a fact which will be apparent hereafter from a description of cases of wounds of the head, heart,

and throat; but the existence of several wounds on a subject, *i. e.* wounds which would commonly be considered sufficient to produce immediate death, certainly affords a presumption of homicide, which is open to be confirmed or rebutted by other circumstances.

Again, it is not possible to say from the mere discovery of marks of contusion or injury on the head, that the deceased must have necessarily labored under concussion, and have therefore been afterwards unable to inflict any other wound on himself. Injuries of the head are attended with the most singular anomalies in this respect. One individual will be rendered insensible and powerless from a blow which leaves scarcely any appreciable marks, while another will be able to walk and exert himself, when the skull has been fractured and depressed, and even when a portion of brain has been lost; in short, the appearances may be such, as to induce many Surgeons to express an opinion that death must have taken place instantaneously. It is quite right, that a medical jurist should be fully prepared for the occurrence of such anomalous cases, but a strong suspicion of homicide may fairly exist where, besides marks of great injury to the head, a severe cut or stab, is found on the body. A man is not likely to cut or stab himself after having sustained such severe violence to the head; but it is quite possible that he may have the power of precipitating himself from an elevated spot, and thereby produce great injury to the head, after having previously attempted to cut his throat, or to stab himself. That this may happen, will be apparent from the following case, which occurred in London in 1836.

A man was found one morning lying dead in the street of a low quarter of the town, with his skull severely fractured, and his throat cut. The evidence adduced at the inquest, satisfactorily showed, that the deceased had attempted suicide

by cutting his throat in his bed room, and had then thrown himself out of the window, by which the fracture and other severe contusions, found on his body, were produced. Had the body of this person been thus discovered in a lonely and sequestered spot, the presumption would certainly have been in favor of murder. Cases of this description are usually determined by circumstantial evidence.

In the following instance there could be no doubt of homicide. A woman was found dead nearly twelve months after she was first missed. Her body was clearly identified. A handkerchief was drawn tight round the neck, and a wound from a pistol ball was traced through the left side of the head, passing out at the right orbit; and three other wounds were found, one of which had entered the heart, and all of which had been made by a sharp instrument. The prisoner charged with the crime alleged that the deceased committed suicide, but the variety of the means and the instruments employed to produce death, as well as the fact that the gun-shot wound in the head, the stab in the heart, and the act of strangulation were individually sufficient to account for speedy death, left no doubt that this was an act of murder.

When several wounds are found on a dead body, the question is frequently asked,—Which was first received? If one be what is commonly called mortal, and others not, it is probable that the latter were first inflicted. This remark applies both to cases of homicide, and suicide; but it is apparent, that where in a murderous assault, a person has been attacked by several individuals at once, the wounds may have been simultaneously produced. This is, however, a question to which it is not easy to give a general answer. Each case must be decided from the special circumstances attending it: and in most instances, unless some direct evidence be afforded, a medical opinion, can be little more than conjectural.

CHAPTER VI.

CIRCUMSTANTIAL EVIDENCE IN THE CASE OF WOUNDS.

Medical Jurisprudence is frequently of much use in testing the truth, and leading to correct inferences from circumstantial evidence: more especially perhaps in determining the homicidal or suicidal origin of wounds. The inferences deducible from the position of a dead body, or that of a weapon in regard to it, or the localities in which traces of blood may be found, &c., may assist materially in developing the real nature of a case, and corroborating other evidence.

The following observations in respect to the above may be found useful.

1. *The position of the Body.*

The body may be found in a position, which the deceased could not have assumed on the supposition of the wound being accidental or suicidal. The position of a dead wounded body, is often only compatible with homicidal interference, either at the time of death, or immediately afterwards. In order to determine the probable time of death, we should always notice or enquire whether the body when discovered retained any warmth, or whether it be rigid; or in a state of decomposition, and to what degree this may have advanced.

2. *The position of the Weapon.*

If a person has died from an accidental, or self-inflicted wound, likely to cause death either immediately or within a few minutes, the weapon should be found either near the

body, or within a short distance: if found near, it is proper to notice on which side of the body it was lying; if at a short distance, we must consider whether it might not have fallen to the spot, or been thrown or placed there by the deceased. If there has been interference with the body, all evidence from the relative position of it and the weapon, will be inadmissible.

We must remember however that it is quite compatible with suicide, that a weapon may be found at some distance, or in a concealed situation.

In a case of suicide which occurred in France in October 1836, a man was found dead in his apartment, with a discharged pistol in his pocket. He had shot himself in the abdomen, and death had taken place from hemorrhage. Still he had had sufficient power to place the pistol in his pocket, after inflicting the wound.

It must be admitted that an occurrence of this kind is very unusual; and that where the hemorrhage proceeds from some incision or stab, involving large arteries or veins, it is wholly improbable that the party should have sufficient power to dispose of the weapon; it will be found either grasped in his hand, or lying by his side. In one instance, it is stated the deceased was discovered in bed with his throat cut, and the razor lying *closed, or shut*, by his side. It appears very improbable, that any person committing suicide after dividing one or both carotids, with the jugular veins, should have power to close or shut the razor, and such fact would be a ground for suspecting murder.

There is, however, one circumstance in relation to a weapon, strongly confirmative of suicide. If the instrument be found still firmly grasped in the hand of the deceased, no better circumstantial evidence of suicide can perhaps be offered. Such

grasping appears to be owing to muscular spasm continuing after death, and manifesting itself under the form of what has been called cadaverous spasm ; a condition quite distinct from rigidity, although often running into it. It does not seem possible that any murderer could imitate this state, since the relaxed hands of a dead person cannot be made to grasp or retain a weapon, like the hand which has firmly held it by powerful muscular contraction, at the last moment of life.

A case occurred in France in 1835, in which the retention of a pistol in the hand of the deceased was improperly considered to indicate murder. The deceased was found dead, sitting in a chair by the side of the bed, his left elbow resting upon the bolster, and his right hand which lay over the right thigh, grasping a recently discharged pistol. The temperature of the body indicated, that the deceased had not been dead above two hours. He had evidently died from a severe gun-shot wound of the head. His son, who slept in the same room with the deceased, was accused of having murdered him, and of having placed the pistol in the hand of his parent after death, in order to give the appearance of suicide. This appeared so much the more probable to those who first discovered the body, because when the hand with the pistol, was carefully carried to the position in which the weapon must have been held by the deceased to have committed the fatal act himself, and the hand was afterwards allowed to fall by its own weight, the pistol each time fell from the hand to the floor. There were also some moral circumstances against the son. The physician, having duly reflected on the position in which the deceased was discovered, satisfactorily accounted for the hand retaining the pistol after death, by the contractile state of the muscles, continuing under the form of cadaverous spasm. The experiments performed by placing the pistol in the hand of the deceased, after this spasmodic con-

traction had been once destroyed, proved nothing. The accused was discharged.

If the weapon cannot be discovered, or if it be found concealed in a distant place, this is strongly presumptive of homicide, provided the wound be of such a nature as to prove speedily fatal. In the case of Lord William Russell no weapon could be discovered, and although the wound in the throat bore some of the characters of a suicidal incision, this fact alone was sufficient to show that it had been the act of a murderer.

With respect to the weapon being found at a distance from the body, the other circumstances should be taken into consideration before any opinion is expressed.

It does not always happen that the weapon with which a wound has been produced, is covered with blood. It has been remarked that in the case of stabs, the knife is frequently without any stains of blood upon it; or there is only a slight film, which, on drying, gives to the surface a brown colour. The explanation of this appears to be that the weapon, in being withdrawn is sometimes cleanly wiped against the edges of a wound in the integuments.

3. *Marks of Blood.*

It is proper to notice all marks of blood on the person, or in the vicinity, and to observe where the greatest quantity has been effused; this is generally found on the spot, where the deceased has died. The deceased may have bled in more places than one: if so, it becomes important to notice whether there be any communications in blood between these different places. Blood on distant clothes or furniture, will show whether the deceased has moved about; and whether he has struggled much after receiving the wound. Acts of locomo-

tion in a wounded person, who has died from hemorrhage, are generally indicated by tracks of blood. We must observe likewise, whether if the wound be in the throat, blood has flowed down in front of the clothes or person; for this will sometimes show whether the wound was inflicted when the individual was standing, sitting, or lying down. If the throat be cut while a person is lying down, it is obvious that the blood will be found chiefly on either side of the neck, and not extending down the front of the body. Few suicides cut the throat while in the recumbent posture, and the course which the blood has taken, may therefore, be sometimes rendered subservient to the distinction of a homicidal from a suicidal wound. The position in which the body was, when the wound was inflicted, is a frequent question on inquests and criminal trials. In the case of Lord William Russell, the throat had evidently been cut while the deceased was lying in bed, the blood was effused on each side of the neck only. There was also found a wound on the thumb of the right hand of the deceased, which must have been inflicted at the time the hand was put up to defend the throat. Recent wounds on the back of one or both hands, when found in persons who have died from a wound in the throat, are, *cæteris paribus*, strongly presumptive of homicide.

In suicidal wounds of the throat, we frequently find the head of the deceased hanging over, or near, a vessel placed purposely to receive the blood.

It is possible that the throat of a person while standing, sitting, or kneeling, may be cut by a murderer from behind, and thus in appearance simulate suicide. It does not therefore follow, that on these occasions, the clothes of the assassin would be necessarily covered with blood; for whenever the attack is made from behind, few or no stains may be found upon his dress. This, of course, must depend upon his

position in relation to the deceased, at the time of inflicting the wound. When the deceased has been murdered with his clothes on, we should notice whether or not any part of his dress has been cut or injured over the situation of the wound. When, together with the wound we find clothes cut through, this is, all other circumstances being equal, presumptive of homicide; for it is not usual that any suicide, unless labouring under confirmed insanity, would be likely to allow any mechanical obstacles of this kind to remain in the way of a weapon. In one case of a homicidal wound in the throat, inflicted in the recumbent posture, it was ascertained that the neck cloth of the deceased had been lifted up, and afterwards allowed to drop over the wound.

Marks of blood on the person of the deceased, require special observation. Very often the impression of a hand, or of some of the fingers, will be found on the skin in a situation where it would have been improbable or impossible for the deceased to have produced it, even supposing that one or both of his hands were covered with blood. In one case of murder, there was found the bloody impression of a left hand upon the left hand of the deceased, in such a situation, that it was quite impossible the deceased himself could have made the mark.

In judging from marks of blood near a dead body, we must take care that we are not unconsciously misled by the accidental diffusion of this liquid by persons moving about in the vicinity.

In these investigations it is not often that any difficulty is experienced in distinguishing a suicidal from an accidental wound. When the wound has really been suicidally inflicted, there are generally to be found about it very clear indications of design; and the whole of the circumstances are seldom reconcilable with the supposition of accident.

Homicide is only liable to be confounded with accident, in relation to contusions and contused wounds. In cuts and stabs the evidence of design will be in general too apparent to allow of any doubt being entertained upon the real origin of the injury.

Numerous cases have of late years occurred in England, which will illustrate the importance of attending to the precise characters of wounds, and the circumstances under which the body of a wounded person is found.

It may be useful to advert briefly, to two of the most remarkable.

In the year 1837, a woman was found dead with her throat cut. The deceased was lying on her back, and the razor with which the wound was inflicted, was found under the left shoulder. On enquiry it was ascertained that when first seen, she was lying on her face, and the body had been turned round on its back. Blood had evidently run down the forepart of her person, rendering it probable that she had been wounded while in the erect position. The incision in the throat was deep, and extended obliquely from the right side of the chin, to within about an inch of the left collar bone. It had divided the windpipe, the gullet, all the muscles of that side of the forepart of the neck, the carotid artery, jugular vein, and the muscles on the forepart of the spine, penetrating even into the bodies of the cervical vertebræ. The incision was double, one superficial close under the chin, and the other, the deeper one, appeared to be continued from this. The deepest part of the right end of the incision was nearly three inches in a direct line behind the right angle of the wound, so that it extended at that part behind and beneath the sound skin. The cut was four and a half inches long, and two and a half deep. The main question was, whether this could have been a suicidal wound inflicted by a razor,

the only weapon found near the body. Considering its characters, the medical witness inferred, that it must have been inflicted by another person, and not by the deceased upon herself. The deceased was right-handed, which would add to the difficulty of supposing the wound to have been suicidal.

A case of some interest occurred at Brighton in April 1830. A woman was found lying dead in her bed with her throat cut. She was on her right side, and the bed clothes were drawn up over her face. A clean razor, shut, was found upon the bed, and another razor, also shut, was found upon the top of the bedstead; this last appeared as if it had been purposely wiped, and there were some stains of blood upon the handle. A minute examination of the body was made. There was an incised wound in the throat, which had the appearance of having been produced by three distinct cuts. It was situated below and behind the angle of the jaw on the right side. It was two inches in depth, and had divided the superficial muscles, the jugular veins, and some of the branches of the carotid artery. This wound had evidently been inflicted while the deceased was lying down. The chief medical question was, whether, under the above circumstances, the deceased could have produced the wound, have put away the razor, and afterwards covered herself with the clothes. The medical witnesses properly answered, that it was in the highest degree improbable, that this could have been an act of suicide.

When the question is, whether the injury resulted from accident or homicide, in relation to contused wounds, there are many difficulties which medical considerations taken by themselves can seldom suffice to remove, but with reference to them it is important to remember that the skin may be wounded through the dress without the latter being cut or torn.

The question whether a wound was or was not self-inflicted, may refer to the living as well as to the dead. A man may produce wounds upon himself for the purpose of simulating a homicidal assault, which for various motives, he may allege to have been committed upon him.

NOTE.—Such attempts are of frequent occurrence in this country and a knowledge of the general principles which have been mentioned may facilitate their detection.

One of the most remarkable cases of this kind which have occurred in England was that of Bolam, who was tried for the murder of a man named Millie at Newcastle in 1839.

It is impossible to enter into all the particulars of this singular trial; but it may suffice to state, that the prisoner Bolam was found lying in an apartment which was fired by himself or some incendiary, and near him was the body of the deceased, who had evidently been killed by violence, the skull having been extensively fractured by a poker lying near. The prisoner was, when found, either insensible or pretended to be so. He stated that he had been suddenly attacked by a man, who knocked him down by a blow on the right temple. After attempting to escape, he was again knocked down. He then felt a knife at his throat, but admitted that he did not put up his hands to protect it. His hands were not cut. He said he remembered receiving some blows on his body, but he became insensible and recollected nothing more. On examining his throat there was a wound an inch and a half in length on the left side of the neck, a quarter of an inch below the jaw. It had penetrated merely through the true skin, and was of no consequence. A small quantity of blood which had flowed down on the inside of his cravat, had escaped from this. There were many cuts on his coat at the back and sides, through his waistcoat, shirt, and flannel shirt, but there were no corresponding cuts, or stabs, nor indeed any mark of injury upon the skin. The question was,

whether these wounds had been inflicted by the unknown person who was alleged to have fired the premises, and murdered the deceased; or whether the prisoner had inflicted them on himself, in order to divert attention, and conceal the crime which he was accused of having committed. No motive for the imputed crime was discovered, and he had borne a very good character, but nevertheless the medical facts relative to the probable self-infliction of the wound, were so strong, that he was convicted of manslaughter.

There can hardly be a medical doubt that the prisoner produced the wounds upon himself. They were superficial, involved no important organs, and bore those characters which wounds only would have, that were not produced with a suicidal intention.

Soon after Bolam's case, one somewhat similar occurred in London. The Steward of a Club House was found one morning in bed wounded, and the cash box of the Club was missing. Circumstances led the police to suspect that no one could have broken into the house; but the man himself was considered so trustworthy, that no suspicion was entertained of his having been concerned in the robbery. The Surgeon who examined him found the wounds on his person of a very trivial character, and there was but little doubt, from what subsequently transpired, that he had produced them on himself for the purpose of averting suspicion.

It is not always easy to trace out the motive for the production of these injuries, and when a reasonable motive is not immediately discovered, persons are very apt to be misled and to credit the story.

A person intending to commit suicide, and failing in the attempt, has sometimes, under a sense of shame, attributed the infliction of a wound in his throat to another, but facts of this

kind may be without difficulty cleared up by circumstantial evidence.

In respect to imputed wounds, if we except the case of an attempt at suicide, where the injury is commonly severe, they are generally of a superficial character, consisting of cuts or incisions; deep stabs are seldom resorted to, where the purpose is not suicide, but merely to conceal other crimes. Further these wounds are in front of the person, and on the right side or left according to whether the person be right or left handed. They have also been generally numerous and scattered wide apart. The hands are seldom wounded, although in the resistance to real homicidal attempts, it is these parts which commonly suffer most severely. The injuries are not usually situated over those parts of the body in which wounds are by common repute considered mortal. Contusions or contused wounds are seldom inflicted by a person on himself under these circumstances.

NOTE.—The observations, &c., contained in the foregoing Chapters on wounds, may perhaps be deemed of small utility to public officers in this country, where the opportunities and information necessary for their practical use are comparatively so few, or incomplete and unattainable. I cannot but think however, that such general knowledge of the chief points to which attention should be turned if opportunity *does* offer, or information *can* be had, and of the inferences which experience has shown may be drawn from them, must be more or less useful. Within my own experience I have known many instances in which it has proved so.

CHAPTER VII.

WAS THE WOUND THE DIRECT CAUSE OF DEATH?

A wound may cause death either directly or indirectly. A wound operates as a direct cause of death when the person dies immediately, or very soon after its infliction, and there is no other cause internally or externally, to account for death. In wounds which cause death indirectly, it is assumed that the deceased survives for a certain period, and that the wound is followed by inflammation, suppuration, gangrene, tetanus,

erysipelas, or some other mortal disease, which is a direct, and not an unusual consequence of the injury. Under this head may be also arranged all those cases which prove fatal by reason of surgical operations rendered imperatively necessary for the treatment of the injury, presuming that these operations have been performed with ordinary skill and care.

The direct causes of Death are three in number.

1. Hemorrhage.
2. Great mechanical injury done to an organ important to life.
3. Shock, or concussion, whereby the functions of one or more vital organs are arrested, sometimes with but very slight injury to the part struck or wounded. From either of these causes a wounded person may die either immediately, or within a very few minutes.

1. *Hemorrhage.* Loss of blood operates by producing fatal syncope. A quantity of blood however, insufficient to cause syncope, may readily destroy life by disturbing the functions of the organ or part into which it is effused. Thus a small quantity poured out in or upon the substance of the brain, may kill by inducing fatal compression, and again, if in a case of wounded throat it should flow into the trachea, it may cause death by stopping the respiratory process.

In wounds of the chest, involving the heart and lungs, death is very frequently due not so much to the actual quantity of blood effused, as to the pressure which it produces upon these organs. A few ounces effused in the bag of the pericardium will entirely arrest the action of the heart.

It must not be supposed that all the blood met with round a wounded body was actually effused during life. As soon as the heart's action ceases, the *arteries* pour out no more; but the blood, so long as it remains liquid, and the warmth of the

body is retained, continues to drain from the divided *veins* and smaller vessels. The quantity thus lost, however, is not very considerable, unless the veins be large.

Hemorrhage may prove fatal, although the blood does not escape from the body. In incised wounds, the flow is commonly abundant; but in punctured and gun-shot wounds, it may take place internally, and rapidly cause death. In severe contused wounds, effusion may go on to an extent to prove fatal, either in the cavities of the body, or throughout the cellular membrane. Many pounds in this way become slowly, or rapidly extravasated.

If a person has died from hemorrhage, unless the wound be situated in a very vascular part, we shall find the vessel or vessels from which the blood has issued, divided, and the neighbouring vessels empty; the blood will also be found clotted or coagulated on those surfaces on which it has fallen. If with these signs, there is an absence of disease, likely to prove rapidly fatal, and no other probable cause of death be apparent, it may be fairly referred to hemorrhage.

Hemorrhage may in some instances take place from a wound in a dead body after the vital heat has entirely disappeared, a fact, which in former times, gave rise to the most superstitious notions, and which even in the present day, often induces an erroneous suspicion that homicide has been committed. In order to explain this, and some other vital phenomena connected with the dead body, it is necessary to refer to those spontaneous changes in the solids and liquids which commence soon after death. When a person has died suddenly from violence or disease, it often happens that within a short period, the whole of the cavities, including the veins, arteries, and cellular tissue, become distended from the gases extricated in incipient putrefaction. These gases when they

collect in the abdomen, push back the diaphragm, in consequence of which, mucus in the state of froth often issues from the mouth and nostrils, the face becomes swollen, the eyes bright and prominent, owing to the blood being forced back to the head and neck. From the same cause, it sometimes happens that the contents of the stomach are actually discharged escaping into the trachea or externally by the mouth. These gases appear also to be formed within the heart and blood vessels, a circumstance which leads to the effusion of blood from a wound made into a vessel before death, long after life has ceased. This post mortem hemorrhage is facilitated by pressure, and hence probably arose the ancient test of the guilt of an accused party, namely, the touch of a murderer.

NOTE.—These remarks on post mortem phenomena are peculiarly valuable and important in this country. Decomposition takes place with great rapidity, and nothing is more common than for parties who have officially, or at the bidding of public officers, or as interested spectators, examined a body, some hours after death, or perhaps the next day, to depose that a "sanguineous froth issued from the mouth and nostrils," this the deponents believe and adduce as evidence of violence having been used, or attribute to any which may have been employed, and unless aware of the facts above mentioned a Court might also form similar conclusions, on undue grounds.

In connection with hemorrhage it may be proper to say a few words on the evidence to be derived from *blood stains.* Popular opinion is apt to attach much weight to it, and to suppose that blood stains on clothes, &c., are readily distinguishable as such. Whereas in fact, it is difficult in most cases, and in many impracticable, to form an accurate and well-grounded opinion on the subject: to do so under any circumstances requires a degree of chemical skill, which at all events places the consideration of the subject generally, without the scope of this work: and instead therefore of endeavouring to show how evidence may be derived from blood stains, it may be safer to insert a caution against its reception.

It might appear at first sight a very easy matter to say whether certain suspected spots or stains on articles of cloth-

ing, furniture, or weapons, were, or were not, due to blood: but in practice great difficulty is often experienced in forming an opinion. If the stains be recent, most persons might be competent to form an opinion; but the physical characters of blood are soon changed, even when the stuff is white, and otherwise favorable to an examination. Again, when the stains, whether recent or of old standing, are upon dark-dyed woollen stuff, as blue or black cloth, or when they appear in the form of spots or thin films on a rusty weapon, no one but a professional man should be allowed to give an opinion. It is, however, by no means unusual to find Magistrates, &c., questioning policemen and others respecting the nature of suspected stains, a practice obviously unjust to the accused and fraught with considerable danger.

It might be supposed also to be a very simple matter to distinguish by sight a stain of blood on a weapon, from a mark produced by iron rust; but this is not the case. When suspicion exists, it is astonishing how readily mistakes are made, and marks are pronounced to be due to blood, which under other circumstances, would have passed unnoticed.

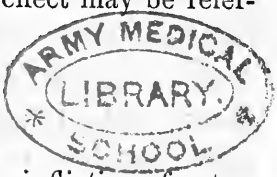
NOTE.—Great weight is attached by the Natives of this country, to the evidence of blood stains. A washerman is generally brought forward who deposes in the most confident manner "that the stain on that cloth is from blood," if it has even been imperfectly washed, he is equally positive, if any trace remain he can tell "it is blood." What reliance can be placed on his testimony, the foregoing remarks will show.

In a case tried before myself, a knife which had been found in the house of a confessing murderer, bore two or three dark reddish spots, which every body on inspecting supposed to be blood, and would not credit the prisoner who declared that the murder had been committed not with that, but with another weapon: on examination under a microscope, they proved to be small masses of some red coloured leaf, which had adhered to the blade, and there become partially decomposed.

2. *Great Mechanical injury done to an organ important to Life.*

We have instances of this becoming a direct cause of death, in the crushing of the heart, lungs, or brain by any heavy body passing over, or falling on, the cavities.

This severe mechanical injury is sometimes accompanied by a considerable effusion of blood, so that the person really dies from hemorrhage; but in other instances the quantity of blood lost is inconsiderable, and the fatal effect may be referred to *shock*.



3. *Shock.*

This is a direct cause of death under the infliction of external violence; and in this case life is destroyed without the injury being to all appearance sufficient to account for the fatal result so following. There is no medical doubt that a person may die from what is termed *shock*, without any marks of severe injury being discoverable after death. Examples of this mode of death we have in accidents from lightning, or from severe burns or scalds, in which the local injury is often far from sufficient to explain the rapidly mortal consequences. As instances of this form of death from violence, may be cited those cases in which a person has been suddenly killed by a blow on the epigastrium; whatever may be said of its operation, the fact itself is undisputed, that a person may die from so simple a cause, without there being any appearance externally or internally to account for death. On the skin there may be some marks of abrasion or bruise, but as it has been elsewhere stated, these are neither constant nor necessary accompaniments of a blow. Convictions for manslaughter have taken place where death has been produced under these circumstances. Concussion of the brain, unattended by mechanical lesion, is another example of this kind of death. A man receives a severe blow on the head; he falls dead on the spot; or becomes insensible, and dies in a few hours. On an inspection, there may be merely the mark of a bruise on the scalp; in the brain, there may be no rupture of vessels, or laceration of structure, and all the organs of the body are

healthy. Thus, then, there is no sign of a mortal injury; and there is apparently no cause to account for death. This can only be referred to the *shock*, or violent impression which the nervous system sustained from the blow, and which the vital powers were unable to counteract or resist.

There is another form of *shock* which is of some importance in medical jurisprudence. A person may have received *many* injuries, as by blows or stripes, not one of which, taken alone, could, in medical language be termed mortal; and yet he may die directly from the effects of the violence, either on the spot, or very soon afterwards. Death is commonly referred to exhaustion, but this is only another mode of expression; the exhaustion is itself dependent on a fatal influence or impression produced on the nervous system. In short, it is a well ascertained medical fact, that a multiplicity of injuries, each comparatively slight, are assuredly as capable of operating fatally, as any single wound, whereby some organ important to life is directly affected. Age, sex, constitution, and the previous state of health, or disease, may accelerate or retard the fatal consequences.

On a trial for murder, which took place in Germany a few years since, it was proved that the deceased had been attacked with sticks, and that he had been afterwards flogged on the back with willow switches. He died in about an hour. On inspection, there was no mortal wound, nor any lesion to a vital organ; there were simply the marks of lacerations and bruises on the skin, apparently not sufficient to account for death, but this was nevertheless very properly referred to the violence.

From the foregoing considerations it is obviously absurd to expect, that in every case of death from violence or maltreatment, there must be some specific and well defined mortal injury to account for that event. When the circumstances

accompanying death are unknown, a medical opinion should always be formed with caution; but if it should be proved that the deceased was in ordinary health and vigour previous to the infliction of the violence, and there is no morbid cause to account for his sudden illness and death, there is no reason why we should hesitate in referring death to a multiplicity of injuries.

It must likewise be remembered, that in all cases where a person has sustained a number of injuries, the loss of a much smaller quantity of blood, than in other instances, will suffice to destroy life.

CHAPTER VIII.

DEATH MAY FOLLOW A WOUND BUT NOT BE CAUSED BY IT.

This event is by no means uncommon, and medical skill is often able to demonstrate, that a wound which in the absence of other apparent cause, might to unprofessional persons appear a sufficient cause of death, was not so actually, and that death must in reality be referred to a fatal termination of co-existing disease.

A person who attempted suicide by cutting his throat, after surviving three weeks with fair prospect of recovery, died suddenly, a circumstance which led to the conclusion that some internal disease must have co-existed, although it was the general opinion that the wound had caused death. The body was carefully inspected, and a large abscess occupying one of the hemispheres of the brain, was discovered, with an effusion of water between the membranes. These appearances, coupled with the symptoms immediately preceding the death, satisfactorily accounted for the fatal result. The medical witnesses accordingly deposed at the inquest, that

death was occasioned by the abscess; and that this had no connection whatever, in its origin, with the wound. They stated that the abscess had probably been forming before the infliction of the wound, and the individual must have died, whether the wound had been inflicted or not. Indeed the loss of blood would, in their opinion, have tended to stay the activity of the disease, and probably to prolong life.

The following is also, in this point of view, a remarkable case. An old man was caught in the act of robbing an orchard; he attempted to escape, but while running away received a blow on the back from the proprietor: the old man went on a few yards, and then fell dead. On inspecting the body, there were no external marks of violence. There was a large effusion of blood in the chest, which was traced to a rupture of the aorta, probably from the vessel being in an aneurismal state. The blow appeared to have been slight, and would probably have produced no evil consequences in a healthy person.

Circumstances already alluded to, and sufficiently obvious, must however in great measure circumscribe the enquiries, and limit the investigations of our Courts in this respect. Like those of Europe they of course require, that in cases where a party is on trial for murder or manslaughter, death should be proved to their satisfaction to be the result of the act with which the accused is charged, but from the very necessity of the case they are compelled to be content with a different degree and nature of proof in that respect. They *must* proceed on strong presumptions and appearances, and *must* assume an injury which in popular opinion, and its own judgment, appears a sufficient cause of death, to be so, unless some circumstances on the record, may show that it was attributable to other causes.

At first sight there may perhaps appear in this state of things, especially to those accustomed to the exactness and accuracy of English practice on the subject, something of dangerous uncertainty, but a little reflection will serve to show that the cause of substantial justice is not likely to suffer thereby. No man can be punished as a murderer, unless there be evidence of his *malicious design*, and unless in pursuance of it, he be proved to have inflicted injuries from which, according to a judgment founded on the best means of information within reach, and which his country affords, a fatal result has ensued. It may indeed be doubted whether *our* practice is not more consonant with sense and real justice, than the more scientific proceedings with which we are comparing it.

CHAPTER IX.

WAS THE WOUND THE INDIRECT CAUSE OF DEATH?

Certain kinds of injuries are not immediately followed by serious consequences, but the individual may perish after a longer or shorter period of time, and his death may be as much a consequence of the injury as if it had taken place on the spot. Wounds of the head are especially liable to cause death insidiously,—the person may in the first instance recover,—he may appear to be going on well, when without any apparent cause, he will suddenly expire.

Death may follow a wound, and be a consequence of that wound, at almost any period after its infliction.

Most wounds leading to death, generally destroy life within two or three months after their infliction:—sometimes the person does not die for five or six months, and in more rare

instances, death does not ensue until after the lapse of twelve months. These protracted cases more especially occur in respect to injuries of the head.

An individual who recovers from the immediate effects of a wound, may die from fever, inflammation, or its consequences, erysipelas, tetanus, or gangrene; or an operation, required during the treatment of his wound, may prove mortal. These are what may be called secondary causes of death, or secondary consequences of the wound.

Fever or erysipelas may follow many kinds of serious wounds, and in some few instances be distinctly traceable to them; but in others the constitution of the patient may be so broken up by dissipated habits, as to render a wound fatal, which in a healthy subject might have run through its course mildly, and have healed. When the fever or erysipelas is readily to be traced to the wound, and there is no other apparent cause of aggravation to which either of these disordered states of the body could be attributed, they can scarcely be regarded by the medical practitioner as very unexpected or unusual consequences of such injuries, especially when extensive, or when seated in certain parts of the body, as the scalp; therefore, if death take place, it does not appear unjust that the prisoner should be as much responsible for the result, as if the wound had proved directly mortal. This principle has already been admitted by our law, with regard to tetanus; and, indeed, were it not so, many reckless offenders would escape, and many lives would be sacrificed with impunity. It is difficult to lay down a general rule, upon a subject which is liable to vary in its relations in every case; but when a wound is not serious, and the secondary cause of death is evidently due to constitutional peculiarities from acquired habits of dissipation, the ends of justice are probably fully answered by an acquittal.

These and similar considerations may cause much attention, and be entitled to great weight under circumstances on which it may be possible to arrive at satisfactory conclusions in regard to them; but in this country, while we admit the principle, and the propriety of investigating and clearing up such questions as far as our means permit, we are obliged to allow that these means are very limited. I think I may venture to say however, that such enquiries are far less commonly called for here than in Europe. From some peculiarity either in the constitution or mode of life, of the Natives of this country, wounds not immediately fatal, more frequently and more readily heal, than in the European subject; so that if the constitution survive the first shock it is apparently in less danger from the attacks of fever, inflammation, erysipelas, &c., which in other climates are so frequently the secondary causes of death. It is seldom that a Court is called upon to pronounce as to whether death be, or be not, attributable to a wound long since received: or where there has been such an interval between the alleged cause and the result, as to leave any doubt of their connection; and should such questions arise, the advantage of European medical testimony can generally be had, the time allowing of measures being taken to procure it: where it cannot be had, the Court can only be guided by its own discretion, and the circumstances of the case, &c.

The most ordinary difficulty experienced in these cases, arises from the consideration of how far the death may be attributable to the injury itself, and how far to bad treatment subsequently. Upon this subject it need only be remarked that when death is really traceable to the negligence or unskilfulness of the person called to attend on a wounded party, this circumstance ought to be admitted in mitigation; especially if the wound be not inflicted under circumstances indicating

murderous intent; in which case, the responsibility of a prisoner is not made to rest upon the death of the wounded party; for even if the latter should recover from the effects of the wound, he is liable to be tried upon a capital charge.

Lord Hale in relation to this medico-legal question observes, "It is sufficient to constitute murder, that the party dies of the wound given by the prisoner, although the wound was not originally mortal, but became so in consequence of negligence or unskilful treatment; but it is otherwise where death arises not from the wound, but from unskilful applications or operations used for the purpose of curing it," that is to say the culprit must take what may be called the *consequences of his country.* A Native of India can clearly have no right to complain if he be punished for inflicting a wound which proves mortal under the comparatively unskilful treatment which it will probably receive, merely because had it been inflicted within the reach of European skill it would most probably not have proved so: but on the other hand he has a right and claim to all the mitigating considerations which may arise from the fact of *unusual* means having been resorted to in order to its cure; or from the wounded party neglecting to resort to the *usual* means; or from the fatal effect being clearly traceable to the state of the constitution of the deceased at the time; and the Court will in all cases put to itself the question, was the amount of injury inflicted, apparently sufficient to cause death in a person of ordinary health and vigour?

In connection with the last mentioned subject it may be noticed, that in addition to those morbid conditions, numerous other internal diseases, such as aneurism, and various affections of the heart and brain, are liable to be rendered fatal by slight external violence. The law, as applicable to these cases, is thus stated by Lord Hale. "It is sufficient to

prove that the death of the party was accelerated by the malicious act of the prisoner, although the former laboured under a mortal disease at the time of the act."

In those cases where a slight degree of violence has been followed by fatal consequences, it is for a Court to decide, under all the circumstances of the case, upon the actual and specific *intention* of the prisoner at the time of the act which occasioned death. And according to Starkie, "it seems that in general, notwithstanding any facts which tend to excuse or alleviate the act of the prisoner, if it be proved that he was actuated by deliberate malice, and that the particular occasion and circumstances upon which he relies, were sought for, and taken advantage of, merely with a view to qualify actual malice, in pursuance of a preconceived scheme of destruction, the offence will amount to murder."

In most of these cases there is an absence of intention to destroy life: in general, the very nature of the wound, as well as the means by which it was inflicted, will suffice to develop the intention of the prisoner. An accurate description of the injury, if slight, will often afford strong evidence in favor of the prisoner, since the law does not so much regard the means used by him to perpetrate the violence, as the actual intention to kill, or to do great bodily harm.

Serious injury, causing death by secondary consequences, will admit of no exculpation when the prisoner was aware, or ought to have been aware, of the condition of the party whom he struck. Thus if a person notoriously ill, or a woman when pregnant, be violently maltreated, and death ensue from a secondary cause, the accused would be held responsible; because he ought to have known that violence of any kind to persons so situated, must be attended with dangerous conse-

quences. So if the person maltreated be an infant, or an infirm and decrepid old man, it is notorious that a comparatively slight degree of violence will destroy life in these cases; and the prisoner would properly be held responsible. A difference, however, is commonly made, between those cases where death arises indirectly from a secondary cause following a wound, and those where the injury merely accelerates the fatal event.

When the accused could not have been aware of the existence of a diseased or an abnormal condition of parts in the wounded person, the question is somewhat different. In many individuals the skull is preternaturally thin, and in such case a moderate blow might cause fracture, accompanied by effusion of blood, depression of bone, or subsequent inflammation of the brain and its membranes; any of which causes might prove fatal.

A condition of this nature if shown to exist, would of course be considered, as death might be caused by a blow, which under ordinary circumstances, would have been attended with no serious mischief.

In some persons, all the bones of the body are unusually brittle, so that they are fractured by the slightest force. Inflammation, gangrene and death may follow, when no considerable violence has been used; but these being unexpected consequences, and depending on an abnormal condition of parts unknown to the prisoner, his responsibility will not be so great as under other circumstances. This condition of the bones can only be determined by a medical practitioner. Facts of this kind show that the degree of violence used in an assault cannot always be measured by the effects, unless a careful examination of the injured part be previously made.

CHAPTER X.

FOR HOW LONG A TIME HAS THE WOUND BEEN INFLICTED? HOW LONG DID THE DECEASED SURVIVE?

The period of time at which a particular wound was inflicted, may become a medico-legal question, both in relation to the living and the dead. The identity of a person, and the correctness of a statement made by an accused party, may be sometimes determined by an examination of the wound, or its cicatrix. So, if a dead body be found with marks of violence upon it, and evidence adduced that the deceased was maltreated at some particular period before his death, it may be judged from the appearance of the injuries, that they could, or could not, have been inflicted at or about that time.

An incised wound inflicted on the living body, gradually heals by adhesion, where no circumstances interfere to prevent the union of the edges. For eight or ten hours the edges remain bloody, they then begin to swell, showing the access of inflammation. If the parts be not kept well in contact, a secretion of a serous liquid is poured out for about thirty-six or forty-eight hours. On the third day this secretion acquires a purulent character. On the fourth and fifth days, suppuration is fully established, and it lasts five, six, or eight days. A fibrous layer then makes its appearance between the edges, which is at first soft and easily broken down: this causes them gradually to unite, and thus is produced what is called a cicatrix. Cicatrization is complete about the twelfth or fifteenth day, when the wound is simple, of little depth, and only affecting parts endowed with great vitality. The length of time required for these changes to ensue will depend

1*st.* *On the situation of the wound.*

Wounds on the lower extremities are longer in healing, than those on the upper part of the body.

If the wound be situated near a joint, so that the edges are continually separated by the motion of parts, cicatrization is retarded.

2*d.* *On the extent.*

Wounds involving many and different structures are longer in healing than those simply affecting the skin and muscles.

3*d.* *On the age and health of the wounded party.*

The process of cicatrization is slow in those who are diseased and infirm.

In an incised wound, the cicatrix is generally straight and regular, but it is semi-lunar if the cut be oblique ; it is soft, red and tender if cicatrization be recent: it is hard, white, and firm if of long standing. On compressing the skin around an old cicatrix, its situation and form are well marked by the blood not entering into it. It has been said, that the cicatrices of incised wounds are linear, but that is not always the case: in general, they are more or less elliptical, being wider in the centre than at the two ends, this appears to be due principally to the elasticity of the skin and the convexity of the subjacent parts: thus it is well known, that in every wound on the living body, the edges are much separated in the centre, and this physical condition influences the process of cicatrization. When the wound is in a hollow surface or over a part where the skin is not stretched, as in the axilla, or groin, then the cicatrix may be linear, or of equal width throughout.

If there be any loss of substance in an incised wound, or if the wound were lacerated or contused, the cicatrix would be

irregular, and the healing would proceed by granulation. The process might here occupy five, six, or eight weeks, according to circumstances. When healed, the cicatrix would be white, and have a puckered appearance, the surface of the skin would be uneven.

If on examining a part, where a stab or a cut is alleged to have been received, we find no mark or cicatrix, it is fair to assume that the allegation is false, and that no wound has been inflicted. Mere abrasions of the cuticle, or very slight punctures and incisions, however, often heal without leaving any well marked cicatrix.

Cicatrices when they are once so produced in the cutis as to be easily perceptible, are indelible. They undergo no sensible alteration in their form, or other external characters.

The tissue of which a cicatrix is formed, is different from that of the skin; it is harder and less vascular, and is destitute of rete mucosum, so that its whiteness, *which is particularly remarkable on the cicatrized skin of the black*, is retained through life.

In the cicatrices of lacerated and contused wounds, the form of the weapon with which the wound was inflicted, is sometimes indicated. It is not easy to distinguish the cicatrix of a stab, from that produced by a pistol-bullet fired from a distance. In both cases the edges may be rounded and irregular, unless the stab has been produced by a broad bladed weapon.

It is important to observe that all cicatrices are of smaller size than the original wound; for there is a contraction of the skin during the process of healing. This is especially observed with regard to the cicatrix of a stab.

The recent wound is apparently smaller than the weapon, and the resulting cicatrix is always smaller than the wound.

Hence it is difficult to judge of the size of the weapon from an examination of the cicatrix. In gun-shot wounds, if the projectile has been fired from a distance, the cicatrix is of less diameter than the ball: it represents a disk depressed in the centre, and attached to the parts beneath; while the skin is in a state of tension from the centre to the circumference. If the bullet have been fired near the body, the cicatrix is large, deep, and very irregular. If the projectile have made two apertures, the aperture of exit is known by the greater size and irregularity of the cicatrix.

When an individual is not seen until after death, and there are recent wounds on his body, a medical jurist may be required to state, at what period they were probably inflicted. It may be taken as a general rule, that there are no appreciable changes in any wound until eight, ten, or twelve hours have elapsed from the time of its infliction; then we have the various phenomena of adhesion, suppuration, or gangrene, during any of which stages the wounded person may die. Some remarks have already been made on the time at which adhesion and suppuration become established in wounds; and with respect to gangrene, it may be observed, that the deceased must have survived at least fifty hours, in order that this process should be set up: in old persons it may take place earlier. We must take care not to confound the effects of putrefaction on a wound with those of gangrene. Putrefaction always commences sooner in parts which are wounded than in those which are unaffected; but the general appearance of the body will show whether or not the changes in the wound are due to putrefaction. The collapse of the eye will indicate this process; while the presence of warmth or rigidity of the members will show that death must have been too recent for putrefaction to have become established.

How long did the deceased survive?

This question, it will be perceived is indirectly connected with the preceding, although sometimes put with an entirely different object. Supposing the wound not to have been such as to prove rapidly fatal, the length of time which a person has survived its infliction may be determined by noting whether it has undergone any changes towards healing, and in what degree. Though a wound remains in the same state for about eight or ten hours after its production, it is not easy to say within that period, how long the person may have survived.

Wounds of the carotid arteries are often pronounced *instantaneously* mortal: and formerly it was the custom to say, that every penetrating wound of the heart was instantaneously mortal, and that the person must have dropped dead on the spot; but more accurate observations have shown, that this is an erroneous, and in medico-legal practice, a highly dangerous doctrine. If a man were found dead, and on inspection it was ascertained, that he had been stabbed through the left ventricle of the heart, it would probably be said in answer to a question relative to survivorship, that he must have died instantly. Yet it is well known, that the Duke de Berri who was murdered in Paris in 1820, survived eight hours after having received a wound of this description. Other and more remarkable instances of survivorship will be adduced hereafter; in the meantime it may be stated, that, although in a surgical view, a question of this kind is of little importance, the case is very different in legal medicine. Upon it may depend the decision of questions relative to suicide, murder, or justifiable homicide.

These observations apply with great force to injuries of the head. In many cases a party after receiving a blow on the head, has survived several hours or days; and after death,

such injury to the cranium has been found, as would, if the person had only been seen when dead, have probably given rise to a medical opinion, that he must have died instantly. On the other hand, a person may fall lifeless from a blow which would produce no appreciable physical changes in the cranium or its contents; yet in this case, if the facts had been unknown, it would have been said, the person might have survived some hours or days. Thus, then, we see that it is by no means easy to determine, from an examination of a wound in a dead body, how long the person, actually lived after its infliction. We cannot say, that an opinion on this subject is never to be expressed from the nature and extent of an injury, but what should be impressed upon a medical jurist is, that it must not be hastily given; for a groundless suspicion of murder may be thereby excited against some innocent person. A wound may be mortal, but it by no means follows, that it should have destroyed life instantaneously.

CHAPTER XI.

ACTS INDICATIVE OF VOLITION AND LOCOMOTION IN PERSONS MORTALLY WOUNDED.

The extraordinary instances reported by medical writers of volition and locomotion after wounds which would in common opinion forbid their exercise, are such as seem to render it unsafe to conclude against their possibility in any case.

It is easy to conceive many cases in which this question will be of material importance. For instance, a man may fall from a height and produce a severe compound fracture of the skull; he may, nevertheless, be able to rise and walk some distance before he falls dead. Under these circumstances there might be a strong disposition to assert, that the

deceased must have been murdered; the injuries being such that they could not have been produced by himself, there being at the same time no weapon near, and no height from which it might be supposed he had fallen.

Wounds of the heart were formerly considered to be immediately fatal to life, but this only applies to those wounds whereby the cavities of the organ are extensively laid open. Persons who have sustained wounds of the heart, have lived sufficiently long to exercise the powers of volition and locomotion.

A case is reported where a man who had been stabbed in the right ventricle, ran eighteen yards after having received the wound. He then fell, but was not again able to rise; he died in six hours. On dissection, it was found that a punctured wound had extended into the right ventricle in an obliquely transverse direction, dividing in its course the coronary artery.

One of the most remarkable instances known of the preservation of volition and power of locomotion after a severe wound of the heart, is that of a boy who survived five weeks, and employed himself during that period in various occupations. After death a mass of wood was found lodged in the substance of the heart. Had he been found dead with such an injury it is most probable, the opinion would have been that his death must have been instantaneous.

This question relative to the power of locomotion, perhaps more frequently occurs with respect to wounds of the great blood vessels of the neck, than of the heart; suicide and murder being more commonly perpetrated by this means.

In April 1842, a man cut the throat of his sister, and afterwards committed suicide by cutting his own.

The woman was found lying dead in the garden at some distance from the house, while it was obvious, from the weapon and a quantity of blood being found near a chair in the kitchen, where she was in the habit of sitting, that the wound must have been inflicted there. On an inspection it was ascertained that the right carotid artery and jugular vein, with the trachea and æsophagus, were completely divided; yet this woman had been able to escape from the house. The matter excited some astonishment at the inquest, from its being supposed that all such wounds ought instantly to deprive a person of the power of moving.

There is one circumstance which requires to be mentioned in relation to these severe wounds in the throat, namely, that although the person may have the power of locomotion, he may not be able to use his voice so as to call for assistance. It sometimes excites surprise at an inquest, how a murder may in this way be committed without persons in an adjoining room hearing any noise; but the fact is well known medically, that when the trachea is divided, as it frequently is on these occasions, the voice is lost.

Under many severe accidents, this power of moving, if not exerted to a large extent, may take place in a small degree, and this is occasionally an important question in legal medicine. Thus it must not be lost sight of, when we are drawing inferences as to the relative position of a murderer and a murdered person, from the situation in which the body of the deceased is found. A dead man, with a mortal injury to the head or heart, may be found lying on his face, when he actually fell upon his back, but still had had sufficient power to turn over before death; or he may have fallen on his face, and afterwards moved, so that the body may be found lying on the back. A slight motion of this kind is very easily executed, it does not always depend on volition. Individuals suffer-

ing under severe concussion have been frequently known to perform acts unconsciously.

Although in cases of severe wounds, we may allow it to be possible that persons should survive for a sufficiently long period to perform ordinary acts of volition and locomotion, yet the presence of a mortal wound, especially when liable to be accompanied by great hemorrhage, must prevent all struggling or violent exertion on the part of the wounded person; such exertion we must consider to be quite incompatible with his condition. In this way, a medical jurist may be sometimes able to determine whether a mortal wound found on the deceased, was inflicted for the purpose of murder, or in self-defence, as the following case will show.

A man was tried in 1834 for the murder of a woman, by stabbing her in the chest. Prisoner and the deceased, with two other females, were quarrelling in the passage of a house. A struggle ensued between the prisoner and deceased, which one of the witnesses said lasted for ten minutes; when the prisoner had reached the door, he pulled out a knife, and stabbed the deceased in the chest. She fell and died almost immediately. The prisoner alleged that he was attacked by several persons, and that he stabbed the woman in self-defence. The Judge said, if the blow had been struck with premeditation before the struggle, the crime would be murder; if during the struggle it would be manslaughter. The medical evidence showed that the blow could not have been struck before the struggle, because it was of a speedily mortal nature, and the deceased would not then have been able, as it was deposed to by the witnesses, to struggle and exert her strength with the prisoner for ten minutes afterwards. This being the case, it followed that in all medical probability, the deceased actually received the blow towards the conclusion of the quarrel, and therefore it might have been inflicted while

the prisoner was attempting to defend himself. The jury returned a verdict of manslaughter.

CHAPTER XII.

WOUNDS AS THEY EFFECT DIFFERENT PARTS OF THE BODY.

A few practical remarks on this subject, will aid in estimating the danger to be apprehended from particular descriptions of wounds, a point which it is evident may materially influence the treatment and disposal of the party accused of inflicting them.

Wounds of the Head.

Incised wounds of the scalp, rarely produce any serious effects, but this will, of course, depend on their extent. When the wound is contused, and accompanied by much laceration of the integuments, it is highly dangerous, in consequence of the tendency which the inflammatory process has to assume the erysipelatous character.

Wounds of the head are dangerous, in proportion as they affect the brain; and it is rare that a severe contused wound is unaccompanied by some injury to that organ.

Concussion. The common effect of a violent contusion on the head is to produce concussion, or extravasation of blood, or both. In concussion, the symptoms come on at once, and the patient, if severely affected, sometimes dies without any tendency to re-action manifesting itself. But the period at which death takes place is liable to vary: a man may die on the spot, or he may linger in a state of insensibility several days, and in either case after death, no particular morbid change may be discovered: there may be simply abrasion of the skin.

Extravasation of blood. A blow on the head may destroy life by causing an extravasation of blood on the surface, or in the substance of the brain. This subject has very important applications in legal medicine, for this is one of the most common causes of death in injuries to the head. Extravasation may occur from violence, with or without fracture, and it may take place without there being any marks of injury to the head. In cases of injuries to the head proving fatal by extravasation of blood on the brain, an individual may recover from the first effects of the violence, and apparently be going on well, when he will suddenly become worse, and die.

Fractures. A simple fracture of the skull is not of itself dangerous, where the bones have not been separated: but it is rare that a fracture of the bones of the cranium is witnessed, without being complicated with concussion, extravasation of blood, or subsequent inflammation internally, to either of which consequences the danger must be assigned. It is necessary to observe, that a fracture does not always take place at the spot which receives the blow: it is often seen in a distant part of the skull. Thus a blow on the vertex, when sufficiently severe to produce fracture often causes the bones to separate at the base of the skull, rather than in the immediate neighbourhood of the spot where the violence was inflicted. These *counterfractions*, as they have been called, are chiefly seen in cases in which the violence has been applied to the cranium, by a body presenting a large surface. They are almost always situated at a point diametrically opposite to the part struck. This is owing to the physical law that the parts in which the force applied to any hollow dome becomes concentrated, are diametrically opposite to each other.

Fractures of the skull, when accompanied by depression of bone, are usually attended with loss of consciousness and the

power of moving; but when a portion of brain is lost, the depressed bone occupying the space of the cerebral substance which has escaped, does not always cause these symptoms. Such injuries are highly dangerous.

A blow on the skull may cause a fracture of the internal table, without producing any appearance of fissure or fracture externally. In other cases the whole substance of the skull may be fractured without a division of the skin, where the force is of a bruising kind.

The Face. Wounds on the face are important on several accounts. When of any extent, they are usually followed by great deformity; and when penetrating the cavities in which the organs of the senses are situated, they often prove fatal by involving the brain and its membranes, or by giving rise to inflammation in that organ.

Wounds apparently confined to the external parts of the face, frequently conceal deep-seated mischief. A sharp instrument penetrating the eyelid and passing upwards with any force, will produce fracture of the orbitar plate of the frontal bone, which is known to be extremely thin, and even injure the brain beyond.

The Nose. These wounds are, generally speaking, of a simple nature, rarely giving rise to serious symptoms, but they are almost always attended with great deformity. A penetrating wound of the nose, produced by passing a sharp pointed instrument up the nostril, may destroy life, by reaching the brain. Such a wound, it is obvious, might be produced without leaving any external marks of injury.

The Chest. These wounds have been divided into those which are confined to the parietes, and those which penetrate the cavity. The division is important, so far as it relates to the prognosis of such injuries.

Incised or punctured wounds of the parietes of the chest are rarely followed by dangerous consequences. The hemorrhage is not very considerable, and is generally arrested without much difficulty. They heal either by adhesion or suppuration, and unless their effect be aggravated by incidental circumstances the progress is very favourable.

Contusions or contused wounds of the thoracic parietes are, however, far more dangerous; and the danger is always in a ratio to the degree of violence used. Such injuries, when severe are ordinarily accompanied by fractures of the ribs or sternum, by a rupture of the viscera within the cavity, including the diaphragm, by profuse hemorrhage, or, as an after effect, by inflammation of the organs, with or without suppuration. Fractures of the ribs are dangerous for several reasons: the bones may be splintered and driven inwards, thereby wounding the lungs and causing hemorrhage, or leading to inflammation of the pleura, or lungs. In fractures of the upper ribs, the prognosis is less favourable than in those of the lower, because, commonly, a much greater degree of violence is required to produce the fracture. A simple fracture of the sternum, without displacement of the bone, is rarely attended with danger, unless the concusssion has at the same time produced mischief internally, which will be known by the symptoms.

When however, the bone is depressed, as well as fractured, the viscera behind may be mortally injured.

Wounds penetrating into the cavity of the thorax, are generally dangerous even when slight, in consequence of the numerous accidents with which they are liable to be complicated. In these wounds, the lungs are most commonly injured: but, according to the direction of the weapon, the heart, or the great vessels connected with it, and other important organs, may share in the mischief.

The Lungs. The immediate cause of danger from wounds of these organs, is the consequent hemorrhage, which is profuse in proportion to the depth of the wound, and the size of the vessels wounded. Should the weapon divide any of the trunks of the pulmonary veins, the individual may speedily sink. The degree of hemorrhage cannot be judged of by the quantity of blood which escapes from the wound: for it may go on internally, and collect within the cavity of the pleura, impeding the respiratory process. This is especially to be apprehended, where the external orifice is small and oblique, and one of the intercostal arteries has been touched by the weapon. A wound of the lung is generally known, among other symptoms, by the frothiness and florid colour of the blood which issues from the orifice, as well as by the expectoration of blood.

The lungs may sustain serious injury from a blow or fall, and yet there may be no external marks of violence or injury, or symptoms indicative of danger for some hours.

The Heart. Wounds of this organ have been already shown not to be so instantaneously mortal as was formerly supposed; but they are to be considered as necessarily, though not immediately fatal.

The Abdomen. Incised and punctured wounds which affect the parietes of the abdomen, without penetrating the cavity, are not quite of so simple a nature as might at first sight be imagined. The danger is immediate, if the epigastric artery be wounded; for a fatal hemorrhage will in some instances take place from a wound of this vessel.

Contusions are attended generally with far more serious effects on the cavity of the abdomen, than on the thorax, death may be an immediate result of a blow in the upper and central portion; no particular morbid changes will be apparent

on inspection, and the violence may have been so slight as not to have left any bruise on the skin. Death has been ascribed in these cases to fatal *shock*.

Blows upon the abdomen may also prove fatal by causing a rupture of the viscera with extravasation of blood; and as it has been elsewhere stated, these serious injuries may occur without being attended by any marks of external violence. Of all the internal organs, the liver and spleen are the most exposed to rupture, owing to their very compact structure, which prevents them from yielding to a shock, like the hollow viscera. Ruptures of the liver occur from falls, or blows; but this organ may be ruptured merely by a sudden action of the abdominal muscles.

Ruptures of the spleen may occur either from violence or disease, and it would appear that a very slight degree of violence is sufficient to rupture this organ, while there will be no marks of injury externally.

Wounds or ruptures of the *gall-bladder* are fatal, owing to the extravasation of the bile, which uniformly induces peritonitis.

Punctured wounds which merely touch the bowels without laying open the cavity, are liable to cause death by peritonitis. These injuries to the intestines sometimes destroy life by shock; there is but little blood effused, and the wounded person dies before peritonitis can be set up. That rupture of the intestines is not incompatible with the power of locomotion, was proved by a case in which the cœcum was ruptured; the man was able to walk after the accident, but he died in twenty-four hours; and other instances of this kind are reported. The ileum is observed to be most liable to rupture from accident.

Penetrating wounds of the stomach generally prove rapidly mortal.

Rupture of the Bladder. This injury is frequently the result of blows on the lower part of the abdomen.

As an attempt may always be made on these occasions to refer a rupture of this organ to natural causes, it may be observed that this is a very unusual occurrence; a rupture is almost always the result of violence directly applied to the part while the organ is in a distended state.

The Genitals. Wounds of these organs do not often require the attention of a medical jurist; such wounds whether in the male or female, may, however, prove fatal to life by excessive hemorrhage. Self-castration, or mutilation, is not unfrequent among male lunatics and idiots.

Incised wounds of the female genitals may prove fatal by hemorrhage, not from the wound involving any large vessel, but from the great vascularity of the parts. Two females were in this way murdered in Edinburgh, some years since. The wounds were inflicted by razors, and the women bled to death.

When deeply incised wounds are inflicted upon the genital organs of either sex, the fact of their existence in such a situation, at once proves wilful and deliberate malice on the part of the assailant; accident is wholly out of the question, and suicide is improbable, except in cases of confirmed idiocy and lunacy. Such wounds require to be carefully examined; for the proof of the kind of wound, when fatal, may be tantamount to the proof of murder.

CHAPTER XIII.

FRACTURES AND DISLOCATIONS.

Fractures may result from falls, blows, or other spontaneous action of muscles. Questions sometimes arise whether a particular fracture was caused by an accidental fall, or a blow; and if by a blow, whether by the use of a weapon or not? It is obvious that the answers must be regulated by the circumstances of each case. In examining a fracture, it is important to determine, if possible, whether a weapon has been used or not, and this may be sometimes known by the state of the parts. It is a common defence on these occasions, to attribute the fracture to an accidental fall. Fractures more readily occur, from equal degrees of force, in the old than in the young; and in the young rather than in the adult; because, it is at this period of life that the bones possess their maximum degree of firmness and solidity. The bones of aged persons are sometimes very brittle, and slight violence will then produce fracture. This is looked upon as an extenuating circumstance, where the fracture is followed by death. Certain diseases also render bones more fragile, as syphilis, cancer, scurvy, &c. In such cases a defence might fairly rest upon an abnormal condition of the bones, provided the violence producing the fracture, was slight.

Fractures are not *dangerous to life* unless of a compound nature, or when they occur in old persons, or in those debilitated by disease, or the result of dissipated habits.

It is not always easy to say, whether a fracture has been produced *before* or *after* death. A fracture produced shortly after death, while the body is warm, and another produced shortly before death, will present much of the same charac-

ter, except, perhaps, that in the former case, there would be less blood effused. One caused ten or twelve hours before death, would be indicated by copious effusion of blood in the surrounding parts, and between the fractured edges of the bones; or if for a longer period before death, there may be the marks of inflammation. Fractures caused several hours after death, are not accompanied by an effusion of blood.

With respect to the power of locomotion after a fracture, it may be observed, that where the injury is in the upper extremity, or in the ribs, unless many of them be broken, an individual may move about, although unfitted for great exertion. Fractures of the lower extremity incapacitate a person from moving except to very short distances.

Dislocations. These accidents are not very frequent in the old, or in those persons whose bones are brittle. They rarely form a subject for medico-legal investigation.

They are not dangerous to life, unless of a compound nature, when death may take place from secondary causes.

CHAPTER XIV.

GUN-SHOT WOUNDS.

Gun-shot wounds are of the contused kind, but they differ from other wounds, in the fact that the vitality of the parts struck by the projectile is destroyed, leading ultimately to a process of sloughing.

The medico-legal questions which arise out of gun-shot wounds are much the same as those which have been examined in relation to other wounds. They are very dangerous to life, more especially when they penetrate or traverse any of the great cavities of the body. Death may take place

directly from hemorrhage or shock; although immediate or copious hemorrhage is not a common character of these injuries.

Indirectly, these wounds are attended with much danger. Sloughing generally takes place uniformly throughout the whole of the perforation, and inflammation or fatal hemorrhage may cut short life. If the individual survive the first effects, he may die at almost any period, from suppurative fever, erysipelas, gangrene, or from the result of operations absolutely required for his treatment.

It is not easy to mistake a gun-shot wound for any other injury. If the circumstances under which it is produced, do not satisfactorily account for its origin, a simple examination will suffice to show its true nature. Sometimes the projectile is found lodged in the wound.

If it be asked, whether the wound was inflicted *before* or *after* death. It is by no means easy to answer this question, unless the bullet has injured some vessel, when the effusion of blood, and the formation of coagula, will indicate that the person was living when it was received. In a gun-shot wound on the dead, no blood is effused, unless the bullet happen to strike a vein. A very frequent question is, whether the wound was caused by a bullet fired near or from a distance. A gun-shot wound produced by the muzzle of the piece being placed near to the surface of the body, has the following characters. There may be two apertures, the one of entrance and the other of exit; but it sometimes happens that the bullet lodges and does not pass out. The edges of the aperture of entrance appear blackened, as if they had been burnt, arising from the heat and flame of the gun powder at the moment of explosion. The skin is often bruised, and is much blackened by the powder; the clothes covering the body are blackened by the discharge, and sometimes ignited by the

flame. If the muzzle of the piece was not in immediate contact, the skin, besides being burnt, is torn and much lacerated. The hemorrhage is usually slight, and when this occurs it is more commonly from the orifice of exit, than from entrance. It should be observed, that the aperture of entrance is round, only when the bullet strikes point-blank or nearly so. If it should strike obliquely, the orifice will have more or less of an oval or valvular form, and in this way we may sometimes determine the relative position of the assailant with respect to the wounded party.

Supposing the bullet to have been fired from a moderate distance, but so near as to have had sufficient momentum to traverse the body, then the appearances of the wounds will be different. The orifice of entrance will be well defined, round or oval, according to the circumstances, the skin slightly depressed inwards, the edges presenting a faint bruised appearance, but the surrounding parts are neither blackened or burnt, nor do they present any marks of hemorrhage. In all cases the orifice of exit is large, irregular, the edges somewhat everted, and the skin lacerated, but free from all marks of blackness or burning: it is generally three or four times as large as the entrance aperture.

The orifice of entrance is however always large and irregular, when the bullet strikes near the extremity of its range. Under common circumstances, the aperture of entrance has generally the appearance of being smaller than the projectile, owing to the elasticity of the living skin. It is the same with the aperture in the dress, when this is formed of an elastic material: according to Dupuytren, the hole in the dress is always smaller than made by the bullet in the integuments. These points should be remembered in fitting projectiles to wounds which they are supposed to have produced.

Useful evidence may be sometimes obtained by a careful examination of the projectile, the identity of which should be preserved.

The question whether a piece was fired near to, or at a distance from the wounded party, may become of material importance on a charge of homicide.

Two persons may quarrel, one having a loaded weapon in his hand, which he may allege to have been accidentally discharged, and to have killed the deceased. If the allegation be true, we ought to find on the body the marks of a near wound; if however, it were such as would have been produced from a distance, and therefore after the quarrel, the medical proof of this fact might imply malice, and involve the accused in a charge of murder.

It has been said, that when a bullet is fired near, it commonly traverses; and therefore it has been rather hastily assumed, that where there is only one external wound, and the bullet has lodged, this is a proof that the piece has been fired from a distance. This inference is, however, erroneous. A bullet may be fired close to the person, and yet not traverse the body, either from its impulsive force not being sufficiently great, or from its meeting with resistance in the body. Many cases might be cited to show, that in the near wounds produced by suicides and murderers, the bullets have not always traversed the body. In suicide, when the piece is discharged into the mouth, the projectile often lodges in some part of the cranium. It is then, it appears impossible to say, from the mere fact of a bullet lodging or traversing, whether the assassin was far off or near at the time the deceased was wounded. The latter point may be sometimes readily determined by the marks of injury and burning to the skin and dress.

If we can at any time discover two fixed points where the ball has touched a building, without being reflected, it will be easy to determine the situation from which the piece was discharged. A singular example of this kind occurred in Ayr in 1831. Several shots had been maliciously fired into a Church. Some of the bullets traversed a window, making holes in the glass, and struck against a wall on the other side of the Church, a fact plainly indicated by the marks which they left. A straight line carried from these two points, reached a window on the opposite side of the street, from which it was afterwards ascertained the bullets had been fired.

When it is doubtful whether the wound was the result of *accident*, *suicide*, or *homicide*, the point may be often settled by paying attention to the situation and direction of the wound. Suicidal gun-shot wounds are almost always directed to a vital part, to the heart, or to the brain: they possess those characters which belong to wounds inflicted near to the body: the skin is blackened or burnt, the wound wide and lacerated, the hand which discharged the weapon often blackened, and sometimes still grasping the pistol. The ball may or may not have traversed, as that will depend on the momentum which it derives from the charge.

Accidental gun-shot wounds also bear the characters of near wounds; they may touch vital parts, but if the body be not disturbed, the presence or absence of design in the infliction of the wound, is commonly made apparent by the relative position of the body and the weapon. They frequently arise from persons drawing the charges of guns and pistols with the muzzles pointed towards them; and these are situated in front; at other times they are produced by persons pulling towards them through a hedge, or dragging after them, a loaded gun. In the latter case the wound is behind and strongly re-

sembles a homicidal wound, although the circumstances under which the body is found, generally suffice to explain the matter.

A gun-shot wound in the mouth or temple, would seldom be set down to accident, and yet attempts are occasionally made to ascribe to such wounds an accidental origin.

In April 1843, an inquest was held on the body of an officer in the army, who was found dead in his bed-room. According to the evidence the deceased, when found, was sitting on the sofa, his head reclining on one side, and blood appeared to have flowed from his mouth, although his lips were closed. He was partly undressed, and the pistol was discovered in his drawers. On inspection it was found that the pistol had been discharged into the mouth, the upper jaw was completely shattered, and the ball was extracted from the back part of the cranium. There appeared to be no motive for suicide, and the deceased had retired to his bed room in his usual health and spirits. The question was: Was this an accidental or a suicidal wound? The Coroner required no medical opinion on that point, but adopted the explanation suggested by a friend of the deceased, namely, that in attempting to pull out the ramrod with his teeth, the pistol had become accidentally discharged into his mouth, and a verdict was returned accordingly.

In suicide there is commonly strong evidence of design, in accident all evidence of design is wanting. Suicides sometimes make use of extraordinary weapons, or use weapons in an extraordinary manner. Guns are rarely used by suicides, and when they are employed, the marks of design are commonly apparent: thus the gun is perhaps found to have been discharged by a piece of string attached to the trigger and the deceased's foot. In one instance a man loaded a gun, and placed the stock and breech in a fire-place. He then

deliberately lighted a fire and sat opposite the muzzle. When suicides destroy themselves by guns the wounds are never situated behind. A wound in the back from a gun, indicates either accident or homicide. Important medical questions sometimes arise out of a case of this kind, for the circumstances under which a dead body so wounded, is found, may entirely forbid the supposition of accident.

Death is sometimes occasioned by small shot, and here several medico-legal questions present themselves. Small shot may act in two ways; 1st, it either strikes without spreading, in which case, the discharge is always near the person, and its action is much more dangerous than that of a single ball, because it produces extensive lacerations; or 2d, it strikes after it has spread, and here the discharge must have been distant, and comparatively little mischief is done. Dr. Lachése ascertained by many experiments, that in order to produce with small shot, a regularly round opening like that resulting from a bullet, the discharge should not take place at a distance greater than ten or twelve inches from the surface of the body. When the distance was from twelve to eighteen inches, the opening made was irregular and the borders were much lacerated; at thirty-six inches, a central opening was entirely lost and the surface of the body was covered by shot. The effect after this was found to depend on the distance, the goodness of the gun, and the strength of the charge; but it is in general much scattered over the surface of the body. In this way, we may form an opinion of the distance at which the piece was fired: small shot is rarely observed to traverse the body entirely. It matters not however, with what the piece is charged, it is capable, when fired near, of producing a wound which will prove fatal. Thus a piece loaded with wadding, or even gun-powder only, may cause death. In all these cases, an impulsive force is

given by the explosion; and the substance becomes a dangerous projectile; the lighter the projectile, the shorter the distance to which it is carried; but when discharged near the body, it may produce a fatal penetrating wound. It is unfortunate, that so much ignorance prevails on this point; for fatal accidents are continually occurring from persons discharging guns at others in sport, an act which they think they may perform without danger, because they are not loaded with ball or shot.

It has been observed, that persons, in attempting to commit suicide, have occasionally forgotten to put a bullet into the pistol; nevertheless, the discharge of the piece into the mouth, has sufficed from the effects of the wadding only, to produce a considerable destruction of parts, and to cause serious hemorrhage. Fatal accidents have frequently taken place from the discharge of wadding from cannon during reviews. It is not easy to say, at what distance a weapon thus charged with wadding and powder, would cease to produce mischief, since this must depend on the impulsive force of the powder and the size of the piece. Dr. Lachése has ascertained by experiment, that a piece charged with gunpowder only, without wadding, is capable of producing a penetrating wound somewhat resembling that caused by small shot, when the piece is large, strongly charged with powder, and fired within six inches of the surface of the body. This arises from a portion of powder always escaping combustion at the time of discharge, and each grain then acts like a pellet of small shot. Under any circumstances a discharge of powder only, contuses the skin, and often lacerating it, if the piece be fired near. The dress is burnt and the skin is scorched from the globe of flame formed by the combustion of the powder; many of the surrounding particles may be actually driven into the cutis. All the substances here spoken

of are considered to be projectiles; and the weapons are held to be loaded arms, so long as they are capable of producing bodily injury at the distance from which the piece containing them, is discharged.

Among the singular questions which have arisen out of this subject, is the following: Whether a person who fires a gun or pistol at another during a dark night, can be identified by means of the light produced in the discharge? This question was first referred to the class of physical sciences in France in 1809, and they answered it in the negative. A case tending to show that their decision was erroneous, occurred subsequently.

A woman positively swore that she saw the face of a person, who fired at another during the night surrounded by a kind of glory, and that she was thereby enabled to identify the prisoner. This statement was confirmed by the deposition of the wounded party. Desgranges, of Lyons, performed many experiments on this subject: and he concluded that on a very dark night, and away from every source of light, a person who had fired the gun might be identified within a moderate distance. This question was raised in England in 1839.

A gentleman was shot at while driving home in his gig during a dark night. He was wounded in the elbow. When he observed the flash of the gun, he saw that it was levelled towards him, and the light of the flash enabled him to recognize at once the features of the accused: in cross-examination he said he was quite sure he could see him, and that he was not mistaken as to his identity. The accused was skilfully defended, and was acquitted.

Some police officers were shot at by highwaymen during a dark night. One of the officers stated that he could distinctly see, from the flash of the pistol, that the robber rode a dark brown horse of a very remarkable shape in the head

and shoulders; and that he had since identified the horse, at a stable in London. He also perceived by the same flash of light, that the person had on a rough brown great coat. This evidence was considered to be satisfactory.

It appears there can be no doubt, that an assailant may thus be occasionally identified.

BOOK III.

DROWNING, HANGING, STRANGULATION, SUFFOCATION, SMOTHERING, AND STARVATION.

CHAPTER I.

DROWNING—CAUSE OF DEATH IN.

Death by drowning is due to asphyxia or suffocation, owing to the physical impediment to the introduction of air.

The medium in which the individual is immersed, act mechanically, and as effectually as a rope or ligature round the neck; for although air escapes from the lungs, and water penetrates into the bronchiæ, yet no air can enter to supply its place.

CHAPTER II.

POST MORTEM APPEARANCES IN DROWNING.

In conducting the examination of the body of a drowned person, it is necessary to remember, that the external and internal appearances will vary much, according to the time which the body may have remained in water, or the period which may have elapsed, after its removal, and before it is examined. Supposing that the body has remained in the water only a few hours after death, and the inspection has

taken place immediately on its removal, the *skin* will be found cold and pallid, sometimes contracted under the form of cutis anserina. Livid discolorations of greater or less extent may be observed. The face is pale and calm, the eyes half open and the pupils dilated, the mouth closed or half open, the tongue swollen and congested, frequently pushed forward to the external edges of the lips, sometimes lacerated by the teeth; and the lips, together with the nostrils, covered by a mucous froth which oozes from them. If the body have been submerged for a longer period, or have remained long exposed before inspection, the skin will be found variously discolored, according to the degree to which putrefaction may have advanced.

There is another external appearance which is sometimes met with in the drowned; the fingers occasionally present *abrasions*, and gravel, sand, or other substances, may be found locked within the hands or nails of drowned subjects; for in the act of drowning, as common experience testifies, an individual will grasp at any object within his reach, and in his efforts to extricate himself, he may excoriate or wound his fingers. There are, however, many cases of drowning, in which this sign is absent. There may be no substance for the drowning person to grasp; this will depend in a great degree upon the fact of the water being deep or shallow, of its being confined within a narrow channel or not, and many other contingencies. In all cases when the individual is senseless before he falls into water, or when his death is caused by syncope from sudden terror, he will of course be incapable of making those exertions which are necessary to the production of this appearance.

In examining the viscera of the abdomen, it will commonly be found that the *stomach* contains a certain quantity of water, which appears to enter into this organ by deglutition.

The quantity is subject to great variation; sometimes it is large, at other times small, and in some instances, no water whatever is met with.

CHAPTER III.

WAS DEATH CAUSED BY DROWNING?

It is obvious that for a correct solution of this question, we shall have to consider the appearances met with in the bodies of the drowned, and to determine how far they are characteristic of this form of death. Among the *external* signs of drowning, when the body is seen soon after death, are paleness of the surface, and the presence of a mucous froth about the nostrils and lips. The absence of these appearances, however, would not prove that the individual had not been drowned; for if the body has remained some time in water, or if it has been long exposed to air before it is seen, the cutaneous surface may have undergone various changes of colour, and mucous froth may no longer be found adhering to the nostrils and lips.

In speaking of the external appearances of the body, it was stated that foreign substances are sometimes locked within the hands, or lodged under the nails, of drowned subjects. This fact may occasionally afford strong circumstantial evidence of the manner in which the individual has died. If materials be grasped within the hands of the deceased, which have been evidently torn from the banks of a tank or river, or from the bottom of the water in which the body is found, we have strong presumptive evidence that the individual died under water. For although it is possible to imagine that the deceased had struggled on the bank and have been killed prior to submersion, yet in the value attached to this

sign, we are presuming that there are no marks of violence on the person, nor any other appearances about the body, sufficiently striking to lead the examiner to suspect that death has taken place in any other way than by drowning. If the substance, locked within the fingers or finger-nails, be sand of the same character as that existing at the bottom of the river or pond, it is difficult to conceive any stronger evidence to establish the fact of death having taken place subsequently to submersion. The abrasion of the fingers is a circumstance of minor importance,—no value could be attached to this state of the fingers as an indication of the individual having perished by drowning, unless it were in conjunction with the appearance above described; the fingers might become abraded or excoriated after death, or even before submersion, but substances found grasped within the hands, must be regarded as a most satisfactory proof of the individual having been alive after his body was in the water. It is well known that when two or three persons are drowned by the same accident, they are not unfrequently found clasped in each others arms,—a fact which at once proves that they must have been living when submerged. So if a dead body be discovered still holding to a rope, cable, or oar, no further evidence is required to show that the deceased must have died by drowning.

The general signs of death by drowning are

1*st. Water in the Stomach.* It has been stated, that water commonly passes into the stomach of a living animal while drowning, and this most probably takes place by the act of swallowing: for it has been observed, that when the animal was stunned prior to submersion, water did not pass down the œsophagus. As a proof that its entrance into that organ, depends on swallowing, it may be stated, that the quantity contained within the stomach is greater when the animal is

allowed to come frequently to the surface and respire, than when it is detained altogether below the surface. The power of swallowing is immediately suspended on the occurrence of asphyxia, and in this way, may we perhaps most satisfactorily account for the difference observed in the two cases. The water thus found is in variable quantity; there are cases of drowning in which water is not discovered in the organ.

Water does not readily penetrate into the stomach of a subject which has been thrown in after death; the parietes of the æsophagus applying themselves too closely to each other, to allow of the passage of the fluid.

2*d*. *Mucous froth in the trachea and lungs.* The trachea in a drowned subject is frequently covered by a mucous froth, and this is stated, in some instances, to have been so abundant, as to have filled the bronchi and their ramifications. It is sometimes disposed in a layer of minute vesicles, tinged with blood. The origin of this appearance has been variously accounted for; but it appears to be produced by the simple agitation or admixture of the air respired in the act of drowning, with the mucous secretion of the air passages, which perhaps under these circumstances, is more copiously poured out, but this mucous froth is not always met with in drowned subjects.

3*d*. *Water in the lungs.* Many contradictory statements have appeared relative to the presence of water in the lungs of the drowned; but it is not unfrequently found; for the glottis does not in every case of drowning become so effectually closed, as to prevent the introduction of a portion of liquid into the pulmonary cells. In some cases there is none, and when present the quantity which is found in the bronchiæ after death, depends on many contingencies, it is commonly

small, often about an ounce, but it is subject to variation, and is probably affected by the number of forced attempts at expiration made by the drowning animal.

There is but little doubt that the quantity becomes increased after death, because it is now well known that water will penetrate into the lungs, when a body has been thrown in dead, and before the access of putrefaction. This it is important for a medical jurist to bear in mind, as it may influence materially the opinion which he may be disposed to form on the discovery of water in the lungs of an apparently drowned subject.

CHAPTER IV.

MARKS OF VIOLENCE ON THE DROWNED.

The chief enquiry with regard to marks of violence on the drowned is, whether they resulted from accident or design, and in forming an opinion we must give due value to the accidents to which a body, floating loosely in water, may be exposed.

Bruises or contusions of considerable extent are sometimes seen on drowned subjects, where they have been carried by a current against any obstacles. If the deceased fell from a considerable height into water, his body, in falling, may have struck against a bank or projection, and have produced a very extensive mark of violence. It is manifestly impossible to lay down any specific rules for forming a decision in these cases, since probably no two instances will be met with which will be perfectly similar. In clearing up these doubtful points, every thing must depend on the tact and acumen of the party who is called upon to conduct the investigation. The first point which he is to determine is, whether the in-

juries on the body were produced before or after death, if after death, then they ought to be obviously of accidental origin. Accidental violence may sometimes be of a very serious nature, so serious that we may well doubt, whether it did not indicate that the deceased had been violently injured prior to submersion. If a dead body were taken out of water, with one or both extremities dislocated, and a Surgeon were asked whether such an injury could be accidental, and coincident with, or consequent on, drowning, the answer would probably be in the negative. But a case has been known where both arms have become accidentally dislocated at the shoulder at the time of drowning; it is that of a man, who some years since, jumped from the parapet of London bridge into the Thames for a wager. This exploit, it appears, the man had previously performed with impunity, but in this instance, he sank and was drowned. Both of his arms were dislocated, in consequence, it is presumed, of his having fallen with them in the horizontal position instead of placing them closely to his sides. The concussion on falling into the water, had sufficed to produce the accident.

Wounds of a most severe description, such as stabs or gunshot wounds bearing a mortal character, may be found on the body without justifying an imputation of murder. Suicides have frequently produced in themselves such personal injuries before plunging into the water. So poison may be found in the stomach, and yet all the facts be compatible with suicide.

In June 1838, a female swallowed an ounce and a half of arsenic, and afterwards threw herself into a river from the deck of a vessel. She was picked up and resuscitated, but died in a few hours from the effects of the poison.

Again, it must be remembered, that the hands and feet may be voluntarily bound by a suicide, and a heavy weight attached to his body, in order the more effectually to accom-

plish his purpose. All these are conditions which must be so generally known to be compatible with suicide, as scarcely to require the necessity for advising caution. Many instances are reported which show that suicides occasionally resort to the most singular expedients to deprive themselves of the power of struggling against this kind of death.

CHAPTER V.

WAS THE DROWNING THE RESULT OF HOMICIDE, OR SUICIDE, OR ACCIDENTAL?

It has been a debated question, whether a person intent on suicide, could have the power to drown himself in shallow water. The occurrence of numerous cases has long since established, that suicide may be perpetrated under these circumstances, as also that death may be due to accident. Thus a man in a state of intoxication may die from drowning, by falling with his face in a shallow stream or pool of water. In short, a depth of water of only a few inches would suffice to cause all the phenomena of death by drowning, but from an external view of the body, the cause of death might not even be suspected.

CHAPTER VI.

HANGING.

Cause of death in. By hanging, we are to understand that kind of death in which the body is wholly or partially suspended by the neck, and the constricting force is the weight of the body itself; while in strangulation, the constricting force is due to some other cause. In both cases death commonly results from asphyxia, although this must

depend in a great measure upon the position of the ligature on the neck. If this be loose, or applied to the upper part of the neck, a small quantity of air may still reach the lungs, and then the cerebral circulation becomes interrupted by the compression of the great vessels of the neck. In this case apoplexy of the congestive kind is induced, and operates as the immediate cause of death.

It has been frequently observed in the execution of criminals, that death does not constantly ensue within the same period of time; and we may probably best explain this fact by a reference to the greater or less degree of constriction produced by the ligature. If the rope should press upon the larynx, or above that organ, the closure of the air-passages will not be so complete as if it pressed upon the trachea immediately below the cricoid cartilage. A slight degree of respiration, might in the former case, continue for a short interval, by which the life of the person would be prolonged, while in the latter, death would be immediate. If the trachea be in part ossified, the pressure of the cord is less perfect, and death would then take place more slowly.

The following may be taken as a summary of the post mortem appearances. The countenance is livid, the eyes prominent, the tongue congested, and occasionally protruded, the lower jaw retracted: the hands are livid and clenched, an oblique mark is found on the neck, sometimes presenting the appearances of a bruise, commonly however, the skin is only changed in colour and hardened, the larynx, trachea, and subjacent muscles are lacerated, depressed, or discoloured. The vessels of the brain are congested, as well as those of the lungs, and the right cavities of the heart. A mucous froth is occasionally found in the trachea.

CHAPTER VII.

WAS DEATH CAUSED BY HANGING?

When a person is found dead, and the body suspended, it may be a question whether death really took from hanging or not. In investigating a case of this kind, it is necessary to draw a distinction between the external and internal appearances of the body. The former alone can assist us in returning an answer to this question, the internal appearances of the body can only enable us to say whether any latent cause of death existed or not, neither the state of the countenance or skin, nor the position of the tongue, can afford any evidence on the subject of death from hanging. It is to the mark produced by the cord on the neck, that medical jurists have chiefly looked for the determination of this question. So far from being always livid or bruised, such condition of the mark is said not to be found in more than one half of the cases which occur. But admitting that we find echymosis or bruised marks in the course of the ligature, are we always to infer that this must have been applied while the individual was living? According to the experiments of Devergie, it would appear that if a subject be hanged immediately, or a short time after death, a bruised mark may be produced by the application of a ligature to the neck. If a few hours were suffered to elapse, so that the body had become cooled, no bruise was produced by the ligature. It has been found that a slightly livid mark was produced on the neck of a dead body, which was suspended *an hour* after death. Hence this condition of the mark, in a body found dead, indicates either that the deceased must have been hanged while living, or very soon after the

breath had left his body. It would be for a Court to decide between these two assumptions; and to consider why, when a man had really died from other causes, he should have been hanged in secrecy, immediately after death.

It would be in the highest degree difficult, if not utterly impossible, to determine medically by an inspection of the body, whether a man had been hanged while living or whether he had been first suffocated, and hanged up immediately after death. In making this admission, it is proper to bear in mind, that that which is difficult to a conscientious medical jurist, is often very easily decided by a Court, from the general evidence before it.

Sometimes besides ecchymosis, there are excoriations of the skin in the course of the cord, and these are known to be vital by the effusion of blood, for Devergie never met with this appearance in the dead, even where the hanging took place immediately after death. The discovery of effused coagula in or about the deep-seated layers of the neck, the larynx, or trachea, or in or about the spinal column, would render it very probable that the deceased must have been hanged while living. Such marks of violence are, however, rare in cases of hanging; and when they are found, it might be assumed that the effusion and coagulation of blood had been caused by violence offered to the neck immediately after death; but this assumption may be met by the question already suggested, namely, why death by hanging should be simulated in the body of a person who was alleged to have died from another cause?

With regard to the depressed or more common kind of mark in suicidal hanging, it can scarcely be said to furnish any evidence in relation to the question which we are here considering. The depression may be hard and discoloured, although it does not usually appear so until some hours have

elapsed after death; for it seems to depend upon a desiccation of the portion of skin which has been compressed by the ligature. Sometimes the upper and lower borders only of the depression, present a faint line of redness or lividity; and it is worthy of remark, that when the ligature presents any knots or irregularities, those portions of skin which sustain the greatest compression are white, while those which are uncompressed may be found more or less ecchymosed. It is in this way the form of the ligature is sometimes accurately brought out. It may be remarked of these impressions produced by the cord, that the characters which they present are the same, whether the hanging take place during life, or soon after death: the appearances may be very similar in the two cases. The following experiments were performed by Casper.

1. A man, aged 28, was suspended an hour after death, by a double cord passed round the neck above the larynx. The body was cut down and examined twenty-four hours afterwards. Between the larynx and os hyoides, there were two parallel depressions about a quarter of an inch deep, the skin having a brown colour with a slight tinge of blue, and a leathery consistency; in certain parts it was slightly excoriated. There was no extravasation of blood beneath, but the muscles which had undergone compression were of a dark purple colour, and the blood-vessels of the neck were congested. The appearance of this subject was such, that any individual unacquainted with the facts, would have supposed, on looking at it, that the person had really been hanged while living. There was nothing to indicate that the hanging had taken place an hour after death.

2. The body of another young man was hanged an hour after death, and an examination was made the following day. The two depressions produced by the double cord were of a

yellowish brown colour, without ecchymosis. The cutis appeared as if it had been burnt or cut, and felt like parchment.

3. An old man who had died from dropsy was hanged two hours after death. The impressions presented exactly the same characters as in the preceding case. When the constriction took place at a later period after death, there was no particular effect produced. We learn from these experiments, as well as from those performed by other observers, that the mark which is most usually seen in vital hanging, is also produced by a ligature applied to the neck of a subject within two hours after death.

Thus then we draw the conclusion that there is no distinctive sign by which the hanging of a living person can be determined from an inspection of the dead body. All the external marks may be simulated in the dead subject, and the internal appearances furnish no evidence whatever. Still, when the greater number of the signs enumerated are present, and there is no other satisfactory cause to account for death, we have strong reason to presume that the deceased has died from hanging. We must not, however, abandon medical evidence on these occasions, merely because plausible objections may be taken to it. Facts may show that, however valid such objections may be in the abstract, they are wholly inapplicable to the particular case under investigation. Perhaps the greatest medical difficulties occur in reference to cases of suicide, owing to the slight appearances which here attend this form of death; but on these occasions satisfactory moral and circumstantial proofs are generally forthcoming. If then it be admitted by a medical jurist, that it is not in all cases possible to distinguish hanging in the living, from hanging in the dead; the admission must be considered as having reference to cases wherein individuals destroy themselves, and not to cases where they are destroyed by others. Even if a

doubt were raised in any particular instance, it is more than probable that circumstantial evidence would furnish data for a decision, and thus satisfactorily make up for the want of ordinary medico-legal proof.

When we find a deeply bruised mark around the neck of a dead subject we shall be justified in saying, all other circumstances being equal, that the individual most probably died by hanging. Since although it is medically possible that such a mark may be produced after death, yet as it would be only a murderer who would think of hanging up a recently dead body to simulate suicide, so it is certain, that in such a case we should most probably find some very obvious indications of another kind of violent death about the person. The absence of these, and the presence of ecchymosis in the course of the cord, would leave the question of vital hanging apparently settled in the affirmative. It is necessary that great caution should be used in expressing an opinion that the hanging probably took place after death, merely from the absence of ecchymosis in the course of the ligature, because, while this is generally true, it may in particular cases lead to the concealment of the real mode of death. Many facts already adduced, show that numerous cases of hanging, during life, would be pronounced to be post-mortem, if this were taken as a criterion. The mere discovery of violence about the person, is not of itself sufficient to rebut the presumption of death from hanging on these occasions. The violence at least should be of such a nature as to account for the immediate destruction of life, or it can throw no light upon the doubt, whether the individual might not have died from hanging in spite of the marks of maltreatment about him.

If in the case of a person found hanging, a medical jurist should assert that death had not taken place from that cause, this would be tantamount to declaring that the deceased must

have been murdered: because it is impossible to admit that any but a murderer would hang up a recently dead person; and this has been frequently done for the purpose of concealing the real means of death, and making the act appear to be one of suicide. The following case is reported by Deveaux.

A female was found suspended to a beam in a barn. From the absence of all the marks of hanging about the face and neck of the deceased, a careful examination of the body was made. In the course of the inspection, a small penetrating wound evidently inflicted by a round instrument was discovered on the right side of the chest, but in great part concealed by the mamma of that side. On tracing this wound it was found to pass between the fifth and sixth ribs, completely perforating the heart from the right to the left side. A considerable extravasation of blood had taken place internally, which had been the cause of death. It was therefore evident from the result of this examination, that the deceased had been killed, and her body suspended after death.

Another case is reported in which an individual was found hanging under somewhat similar circumstances, and, on examination it was discovered that death had been caused by the administration of poison,—the body having been subsequently suspended. In one instance a quantity of plaster of Paris was discovered in the stomach and intestines of a person found hanging.

Circumstantial evidence has more than once assisted in clearing up a doubtful case. On removing the body of a man who was found hanging, the rope was observed to be clotted with blood. This simple circumstance led to further investigation, by which it was discovered that the person had been murdered, and his body afterwards suspended. The presence of marks on the neck indicative of strangulation, such as the

cord was not likely to have produced, may lead to suspicion that the hanging followed death.

A boy was found hanging perfectly dead. On inspecting the body a round ecchymosed mark, about the size of a dollar, was seen on the forepart of the neck, and near it, were several impressions, as of fingers, in the surrounding skin. There was neither depression nor ecchymosis in the course of the cord. The inspection left no doubt that the deceased had died from asphyxia. It was subsequently discovered, that the boy had been first strangled, and afterwards hanged.

In another case a man was found hanging in a room. His body was so suspended from a hook in the door that the trunk was not more than nine inches from the floor; and his legs were stretched out at length. The cord was from two to three feet long, and but loosely passed round the neck. The furniture in the room was in great disorder, and some marks of dried blood were seen in one part of the floor. The right side of the head and face of the deceased presented several excoriated and ecchymosed marks. There was a circular impression around the neck produced by the cord; but it was entirely free from ecchymosis. On the left side, a little above this impression, there was a strongly ecchymosed mark, which could be traced round to the back of the head. Blood was found extravasated beneath this mark. The lungs presented the characters of asphyxia, but the examiners referred this to strangulation and not to hanging, considering that the body had been suspended after death to give the appearance of suicide. Had there been an ecchymosed mark on the neck, which could not have resulted from the suspending cord, the case would have remained medically speaking doubtful; because it is well known that the affirmative signs of hanging may be absent, and yet the individual may thus have died.

Marks of violence on the hanged. The presence of marks of violence on the body of a hanged person, are important, and it will be proper for a witness to notice accurately their situation, extent, and direction. Having satisfied himself that they must have been received during life, the examiner will have to consider the probability of their being of accidental origin or not. These marks of violence are not always to be regarded as unequivocal proofs of murder; for it is possible that they may have been inflicted by the individual himself before hanging; and not succeeding in committing suicide by these attempts, he may subsequently have resolved to accomplish his purpose by suspending himself. Thus a hanged subject may bear the marks of a gun-shot wound, his throat may be cut, his person lacerated or disfigured, and yet before the idea of homicide is entertained, it ought to be clearly shown that such injuries could not, by any possibility, have been self-inflicted. The importance of observing caution in such a case will be more manifest, when there is no ecchymosis produced by the cord, and the face does not present the usual characters of hanging.

Marks of violence on a hanged subject, may in some cases be fairly ascribed to *accident.* If the individual have precipitated himself with any violence from a chair or table in a furnished apartment, he may have fallen against articles of furniture, and have given rise to lacerations and contusions especially on the extremities. Again it is possible to imagine, that the rope may have given way, and the individual in falling, have injured his person, but he may afterwards have had resolution enough to suspend himself again. Such an occurrence may be rare; but when the presence of these injuries is made to form the chief ground of accusation against a party as a murderer, the possibility of their accidental origin ought not to be lost sight of. If we suppose the person to

have been hanged in a state of intoxication or stupefaction, medical evidence alone will rarely suffice to determine the question of homicide or suicide. The absence of all marks of violence from the person might actually lull suspicion.

It is proper on all these occasions to look to the hands of the deceased, since it is with these a person defends himself, and unless taken unawares, it is almost certain, if the hanging were homicidal, that there would be traces of violence on these parts. The clothes would be torn and discomposed, and the whole appearance of the deceased would be that of one who had done his utmost to resist a violent murderous attack. There are some injuries which could not be attributed to accident under the circumstances. Among these we may enumerate fractures, dislocations, deeply penetrating or incised, or gun-shot wounds. Now the question is, Do these serious injuries necessarily establish homicide? The answer must be in the negative: although where fractures or dislocations exist, there are very strong grounds for suspicion. Suicides, it must be remembered, are capable of making many attempts on their lives by various means.

A man was found dead, hanging in his bed room at an inn. His dress was much disordered, and blood which had issued from a deep wound in his throat, was found scattered over the floor. From the facts proved, there was no doubt that this had been an act of suicide; and that the deceased previously to hanging himself, had first attempted to cut his throat. Had his body been found in an exposed situation, this wound in the throat might have given rise to a suspicion of murder.

In one instance of suicidal hanging, there were lacerated wounds, upon the head, and a handkerchief was found blocking up the mouth.

CHAPTER VIII.

WAS THE HANGING THE RESULT OF ACCIDENT, HOMICIDE, OR SUICIDE?

At an inquest held on the body of a boy aged 10 years, it appeared in evidence that he had been playing with a child 8 years old, who was the only witness of his death. The deceased had been amusing himself in swinging, by fastening a piece of plaid gown to a loop in a cord which was suspended from a beam in the room. In the act of swinging he raised himself up, and gave himself a turn, when the loop of rope suddenly caught him under the chin, and suspended him until life was entirely extinct. The boy who was in the room with him, did not give any alarm for some time thinking that the deceased was at play.

In another case a man who was in the habit of exercising himself in gymnastics with a rope, was one morning found dead, and suspended in his bed room. The rope had passed twice round his body, and once round his neck, whereby it had caused death, although the legs of the deceased were resting on the floor. There was no doubt that the deceased had been accidentally hanged.

In these cases the circumstances under which they occurred, were sufficiently decisive of the manner in which the hanging took place. Indeed circumstantial evidence must always suffice for the discrimination of accidental hanging; and we have therefore to enquire whether, when an individual is found hanging under circumstances which do not allow of the suspicion of accident, the act be the result of suicide or of homicide.

It has been very truly observed that of all the forms of committing murder, hanging is one of the most difficult, and

it is, therefore, but seldom resorted to. In most cases where an individual has been hanged by others, it has been after death, in order to avert the suspicion of homicide. Hence the discovery of a person hanging affords primâ-facie evidence of suicide, supposing it to be rendered probable, if not absolutely certain, that death has taken place in this manner. We must, however, admit that an individual *may* be murdered by hanging, and the appearances about his body will not afford the smallest evidence of the fact. First. Where the person hanged, is feeble, and the supposed murderer a strong healthy man. In such a case, a child, a youth, a female, or an individual at any period of life, worn out and exhausted by disease or infirmity, may be in this way murdered. Secondly, when the person hanged, although usually strong and vigorous, is at the time in a state of intoxication, stupified by narcotics, or exhausted by his attempts to defend himself. Thirdly, in all cases, murder may be committed by hanging, when many are combined against one individual. With these exceptions, then, we shall be correct in deciding in a suspected case, in favour of the presumption of suicide. Unless the person labour under stupefaction, intoxication, or great bodily weakness, we must expect in homicidal hanging, that there will be evident marks of violence about the body; for there are few who would allow themselves to be murdered without offering resistance.

It has been said, if the mark be circular, and placed at the lower part of the neck, it is unequivocal proof of murder. In hanging, the cord is generally oblique, being higher at the back part of the neck, in consequence of the loop formed by it, yielding more in that direction than anteriorly. But it is an error to suppose that this want of obliquity in the impression, can afford any evidence in favor of the act having been homicidal. Its form will depend in a great degree upon the

fact of the body being supported or not, for it is the weight of the body which causes its obliquity: it will also depend on the manner in which the cord is adjusted. A case of suicidal hanging is related, in which the mark of the cord extended horizontally round the neck from behind forwards. The slip-knot of the cord was in front of the neck, and it is obvious that when the cord is thus adjusted by a suicide, there will be scarcely any obliquity in the depression produced by it. Equally ill-founded is the assertion, that the existence of two impressions on the neck, affords positive proof of homicide. One of these impressions, may be at the lower part of the neck and circular; the other at the upper part, and oblique; it has therefore been said that in such case the deceased must have been strangled in the first instance, and afterwards hanged. The possibility of a prior attempt being made by a suicide to strangle himself is not adverted to. It is fortunate that there are facts on record to oppose to this statement.

A female lunatic committed suicide by hanging herself, and on her neck two distinct impressions were seen, the one circular, the other oblique. These appear to have arisen from the circumstance of the cord having been twice passed round the neck, the body being at the time partially supported. In some instances, a presumption of homicidal interference may exist if there be two distinct impressions, but it cannot be admitted that they establish the fact of murder.

In all doubtful instances, we should not lose sight of moral and circumstantial evidence. We should ascertain whether the individual had been previously disposed to commit suicide or not, we should observe whether the doors and windows of the apartment be secured on the inside or on the outside, whether the dress of the deceased be at all torn or discomposed, or his hair dishevelled, and whether the rope or ligature correspond to the impression seen around his neck.

Lastly, it has been contended that the *position* of the body may serve to distinguish suicidal from homicidal hanging. This point was strenuously argued on the investigation which took place relative to the death of the Duke de Bourbon in 1830. According to the opinion of some of the witnesses on that investigation, if the body of a man be found in an inclined posture, or so suspended as that his feet are in contact with the floor, the idea of suicide by hanging is at once negatived, we are rather to suppose that the person must have been otherwise destroyed, and his body afterwards placed in that position by his murderers. Here then we are called to admit that the suicidal hanging is improbable, if not impossible, unless the deceased be found freely and absolutely suspended without any support. This very strong opinion, it will be seen, is not borne out by facts. In order that death should take place by hanging, it is not necessary that the body should be freely and perfectly suspended. Cases are of very frequent occurrence, where the bodies of hanged persons are found with the feet on the ground, kneeling, sitting, or even in the recumbent posture. These are truly mixed cases of hanging and strangulation. Of eleven cases of suicidal hanging or strangulation occurring within the last few years, in three, the deceased were found nearly recumbent; in four, in a kneeling posture, the body being more or less supported by the legs; and in four, the persons were found sitting.

Further evidence need not be adduced to show how unfounded is that opinion which would attach the idea of homicidal interference, to cases where a body is loosely suspended, or in contact with any support. We ought rather to consider this fact as removing all suspicion of homicide; for there are few murderers who would probably suspend their victims either living or dead without taking care that the suspension

was complete. Besides all such cases are readily explicable; thus, if the ligature be formed of yielding materials, or loosely attached, it will give way to the weight of the body after death, and allow the feet to touch the floor, which they might not have done in the first instance. If there is reason to believe that the body has not altered its position after suspension, we must remember the facility with which insensibility comes on, and the rapidity with which death commonly ensues in this form of asphyxia. One or two other points are also worthy of notice in relation to this question. The hands or the legs, but more commonly the former, have been, on more than one occasion, found tied in instances of suicidal hanging. It has been gravely debated, whether it were possible for a person to tie or bind up his hands and afterwards hang himself. It is unnecessary to examine the ingenious arguments which have been urged against the possibility of an act of this kind being performed; since among many cases that might be quoted, two have recently occurred in London where persons died from hanging,—the act was suicidal, and the hands were found tied in both instances with a silk handkerchief.

Again, it has been a debated question, whether corporeal infirmity, or some peculiarity affecting the hands, might not interfere with the power of an individual to suspend himself? This question can only be decided by reference to the special circumstances of the case. In the case of the Prince de Condé, it was alleged that he could not have hanged himself, in consequence of a defect in the power of one hand; it was said that he could not have made the knots in which the cravats by which he was suspended, were tied. Allegations of this kind appear to have been too hastily made in this, and other instances. A determined purpose will often make up for a great degree of corporeal infirmity; and unless we make full

allowance for this in suicide, we shall always be exposed to error in drawing our conclusions. Is blindness a bar to suicidal hanging? The answer is decidedly in the negative, not from theory but from actual facts; although some might be inclined to doubt whether a man labouring under such an infirmity, could really thus destroy himself.

In 1837, an inquest was held on the body of a blind man, who was found dead, hanging in an out-house. The evidence left not the smallest doubt of his having committed suicide.

When an individual has obviously died by hanging, and the presumption of suicide is rebutted, the only alternative is, that it must amount to murder. It is not possible to conceive that the act of hanging another, can ever admit of justification or excuse. When in the case of death from drowning, or wounds, it be doubtful whether to refer death to suicide or homicide, the admission of the act having been homicidal, does not necessarily cut off all hope from the offender. The deceased may have been drowned or wounded accidentally; or he may have been drowned or wounded intentionally, but under circumstances of great provocation. The act, therefore, may turn out to be a form of manslaughter. In hanging, however, the defence could never be that the act was accidental, nor is it possible to believe that the law would admit provocation as a justification for what must have been so deliberately done. The act itself, like poisoning, would be at once evidence of malice. With this knowledge then, of what the absolute denial of suicide must lead to in a suspected case, we are bound to examine closely every presumption which can be construed in the least degree unfavourably to an accused party.

CHAPTER IX.

STRANGULATION.

The cause of death, and appearances, in hanging and strangulation, are usually treated together, and some medical jurists have admitted no distinction in the meaning of these terms. In hanging, the phenomena of asphyxia take place in consequence of the suspension of the body, while in strangulation, asphyxia may be induced not only by the constriction produced by a ligature round the neck independently of suspension, but by the simple application of pressure, through the fingers, or otherwise, to the trachea. It may indeed be said, that every individual who is hanged, is literally strangled; but hanging is only one form of strangulation, and sufficiently peculiar to claim a separate consideration. We have now, therefore, to direct our attention to the other means which may be employed to obstruct the respiratory process by external pressure on the trachea.

The cause of death is the same in the two cases, and the rapidity with which death ensues in strangulation, will depend in a great degree on the force employed, and on the completeness with which the respiratory process is obstructed. In strangling a much greater degree of violence is commonly employed than is necessary to produce asphyxia; and hence the marks produced on the skin of the neck, will be, generally speaking, much more evident than in hanging, where the mere weight of the body is the medium by which the trachea is compressed.

The medical jurist ought, therefore, to weigh all the circumstances connected with the position of the body and the direction of the ligature, before he forms an opinion as to

whether the individual has been hanged or strangled. Much more importance is to be attached to the lividity, ecchymosis, and abrasion of the skin, in the course of the ligature, than to the circularity or obliquity of the depression produced by it. In the strangling of a living subject by a cord, it is scarcely possible that a murderer should avoid producing on the neck, marks of violence, and in the existence of these, we have an evidence of the manner in which death has taken place, which we cannot always expect to find in hanging. On the other hand a person may be strangled, and yet the ligature, in consequence of its being soft and of a yielding nature, will not cause a very perceptible depression or ecchymosis. Such instances must, of course, be rare; because murderers usually produce a much more violent constriction of the neck than is necessary to ensure the death of their victims.

CHAPTER X.

WAS DEATH CAUSED BY STRANGULATION, OR WAS THE CONSTRICTING FORCE APPLIED TO THE NECK AFTER DEATH?

The internal appearances of the body will yield no evidence, whereby the question can be solved; but the external appearances are commonly less ambiguous than in a corresponding case of hanging. The ecchymosis about the depression on the neck, when a ligature has been employed, with the accompanying turgescence and lividity of the face, are phenomena not likely to be simulated in a dead body by the application of any degree of violence. When the constriction is produced within a few minutes after dissolution, an ecchymosed depression may result; but it is improbable that there should be any lividity or turgescence of the countenance.

Casper's experiments have established, that when the constricting force is not applied within six hours after death, no mark resembling that formed on the living subject, is produced. It is difficult to conceive under what circumstances such an attempt to simulate strangulation in a recently dead body could be made, unless for the purpose of throwing suspicion upon an innocent person connected with the deceased.*

When an individual has been murdered, it is not likely that the murderer would attempt to produce the appearances of strangulation on the body after death, under the idea of concealing his crime; for strangulation is in most cases a positive result of homicide, and is very rarely seen as an act of suicide. In the absence of marks of violence from the neck, it will be difficult to form an opinion, unless from circumstantial evidence. It must be remembered, however, that there may not always be circular marks, for an individual may be strangled by the application of pressure to the trachea through the medium of the fingers, or of any hard or resisting material. The marks or bruises in such case, will be detached spots.

In the absence of all marks of violence about the neck, we should be cautious in forming an opinion which may affect the life of an accused party; for it is scarcely possible that homicidal strangulation could be accomplished without the production of some appearances of violence about the larynx or trachea, and in that case the Law must decide, on other and independent grounds, in favour of, or against an accused party.

The state of the countenance alone, will scarcely warrant the expression of an opinion; for there are many kinds of

* The frequent attempts made for such diabolical purposes in this country, render it necessary that every possibility of this nature should be known, and carefully considered under such circumstances.

death in which the features may become livid and distorted, from causes totally unconnected with the application of external violence to the throat.

CHAPTER XI.

WAS THE STRANGULATION THE RESULT OF ACCIDENT, SUICIDE, OR HOMICIDE?

Cases of accidental strangulation are by no means uncommon. They have occurred from individuals carrying weights at their backs supported by bands passing round the head and chest, the slipping of which has given rise to asphyxia by compressing the trachea. In all cases of accidental strangulation, the position in which the body is found, as well as other points of circumstantial evidence, must suffice to establish unequivocally the manner in which death really took place.

Suicide by strangulation must be regarded as of extremely rare occurrence, and except under particular circumstances, impossible. The possibility of an individual strangling himself, was for a long time denied, for it was presumed that where the force was applied by the hand, all power would be lost so soon as the compression of the trachea commenced. This reasoning, which is physiologically correct, is, however, only applicable to those cases in which the trachea is compressed by the fingers. When an individual determined on suicide, allows the trachea to be compressed by leaning with the whole weight of his body on a ligature passed round his neck and attached to a fixed point, he may perish in this way almost as readily, as if he had hanged himself; for insensibility and death will soon supervene. In the Chapter on hanging it has been mentioned that suicides were often found

with their bodies in close contact with the ground, and strangulation might be accomplished in the manner above described, while the suicide was in a sitting or kneeling posture. On other occasions, the peculiar disposition of the ligature has enabled a suicide to strangle himself without much difficulty. Cases are related where suicides have succeeded in strangling themselves by tightening the ligature with a stick; or where it was of thick and rough materials, by simply tying it in a knot. There are but few instances in which suicidal strangulation can be admitted to take place; and it would require a great deal of art and contrivance on the part of a murderer, so to dispose the body of his victim, or to place it in such a relation to surrounding objects, as to render the suspicion of suicide probable. Thus if the ligature should be found loose or detached, if the marks of violence should not accurately correspond to the points of greatest pressure,—if moreover, the means of compression were not very evident when the body was first discovered, and before it had been removed from its situation, there would be very fair grounds for presuming that the act was homicidal. In all those cases, where the strangulation has resulted from compression of the trachea by the fingers, and where there are fixed bruised marks indicative of direct manual violence, we have the strongest presumptive evidence of murder; for neither accident nor suicide could be urged as affording a satisfactory explanation of their presence.

CHAPTER XII.

SUFFOCATION.

When the respiratory process is impeded by any cause which operates independently of external pressure on the trachea, the individual is said to perish by suffocation. The

circumstances under which suffocation may be induced are very numerous. Thus a diseased state of the parts about the fauces, the sudden bursting of a tonsillary abcess, the effusion of lymph into the trachea or about the rima glottidis, the presence of foreign bodies accidentally or forcibly introduced into the mouth,—may become so many causes of the sudden arrest of the respiratory functions, the precise nature of any of which, a very superficial examination of the body will suffice to determine. Suffocation may be accidental or suicidal. Accidental deaths from this cause frequently occur from persons swallowing unusually large masses of food, from the deceased falling while intoxicated, or helpless from infirmity, into mud, feathers, ashes, or similar bodies. Suicidal suffocation from mechanical causes, is not very common, but some cases are recorded. A remarkable instance of this form of suicide is reported in which the deceased forced a hard cotton plug into the back of the fauces. A similar case was the subject of an inquest in London in 1843. The deceased had thrust into his throat, a large piece of rag, which had been used for a lotion. He speedily died suffocated, and after death the rag was found lodged at the back part of the larynx. The internal organs in these cases present no particular appearance indicative of the kind of death; they are very liable to be mistaken for apoplexy, and they certainly show the necessity for a post mortem examination in every instance of sudden death.

CHAPTER XIII.

SMOTHERING.

This is only a variety of suffocation, and consists in the mere covering of the mouth and nostrils in any way so as to prevent the free ingress and egress of air. Like drowning,

hanging, or strangulation, it produces death by asphyxia. In newly-born infants, it is not an unusual occurrence, sometimes originating in accident, and at others in criminal design. A young infant is very speedily destroyed in this way. If the mouth be only lightly covered over with clothing, or slightly compressed, so that respiration is interrupted, as in the act of carrying a child in the arms, this will suffice to cause death, and it is worthy of remark that death often takes place without being preceded with convulsions or other striking symptoms. Smothering is not often resorted to as a means of perpetrating murder, except in infants, or in the debilitated or infirm. As an accident, smothering may be conceived to take place when an individual falls in a state of intoxication and debility so that his mouth becomes in any way covered, or the access of air to the external outlets interrupted. On an inspection of the body, the appearances described under the head of asphyxia, will be met with in the organs of circulation and respiration: hence in a suspected case of murder, we must look for the common indications of all the forms of death by asphyxia, and to the circumstances under which the body is found, before we can offer an opinion on the probable cause.

CHAPTER XIV.

STARVATION.

Starvation must be classed among the causes of violent death, being sometimes the result of criminal neglect or inattention in the treatment of children, or of infirm and decrepid persons, and thus constituting homicide; or at other times, although very rarely, arising from an obstinate determination to commit suicide in those from whom all other means of self-destruction are cut off.

The symptoms which attend on protracted abstinence are thus described by Rostan. In the first instance, pain is felt in the epigastrium, which is relieved by pressure. The countenance becomes pale and cadaverous, the eyes become wild and glistering, the breath hot, the mouth dry and parched; a most intolerable thirst supervenes, which, in all cases of attempted suicide by starvation, has formed the most prominent symptom. The body becomes emaciated, the eyes and cheeks sink, and the prominences of the bones are perceptible: the feelings of pain are often so intense as to give rise to fits of delirium. There is the most complete prostration of strength, which renders the individual incapable of the least exertion. After a longer or shorter period, the body exhales a fetid odour, the mucous membrane of the outlets, becomes sometimes red and inflamed, and life is commonly terminated by a fit of maniacal delirium, or the most horrible convulsions.

The period which it requires for an individual to perish from hunger is subject to variation. It will depend materially upon the fact, whether a person has it in his power or not, to take occasionally a portion of liquid to relieve the over-powering thirst which is commonly experienced. The smallest portion of liquid thus taken occasionally, is found to be capable of prolonging life. It is probable that in a healthy subject under perfect abstinence, death would not commonly take place in a shorter period than a week or ten days. This opinion appears to derive support from the results of those cases in which there has been abstinence owing to disease about the organs of deglutition. Starvation is commonly the result of accident or homicide, but this is a question purely for the decision of a Court—it cannot be elucidated by medical evidence. The withholding food from an infant, forms a case of homicide by starvation, on which a medical opinion

may be occasionally required. It has been recently held in England, that the *mother*, and not the father, is bound to supply sustenance to an infant. The child in that case was aged ten weeks, and the father was charged with wilful murder, on the ground that he had not supplied it with food. The grand jury ignored the bill, under the instructions of the judge, upon the ground above stated. But where the husband and wife were charged with the murder of an apprentice to the husband, by using him in a barbarous manner, and the opinion of the medical witness was, that the boy had died from debility occasioned by the want of proper nourishment, it was held that the wife was entitled to be acquitted, as it was the duty of the *husband*, and not the wife, to provide sufficient food and nourishment for the apprentice. Starvation is rare as an act of homicide, but it must not be supposed that the Law implies by this, the absolute privation of food; for if that which is furnished to a person be insufficient in quantity, or of improper quality, and death be a consequence, malice being at the same time proved, then the offender equally subjects himself to a charge of murder. Not many years since, a woman who was accustomed to take parish apprentices, was tried and convicted for the murder of two children, who died in consequence of the bad quality and small quantity of food furnished to them by the prisoner.

BOOK IV.

RAPE—ABORTION.

CHAPTER I.

RAPE.—GENERAL REMARKS RESPECTING

Rape is defined in Law to be the carnal knowledge of a woman by force and against her will. Medical evidence is occasionally required to support an accusation of this kind, but it is seldom more than corroborative, because the facts are in general sufficiently apparent from the statement of the prosecutrix. There is, however, one case in which medical evidence is of some importance, namely, where a false accusation is made. In some instances, as in respect to rape on young children, the charge may be founded on mistake: but in others there is little doubt that it is often wilfully and designedly made from motives, into which it is here unnecessary to enquire. Professor Amos remarked some years since that for one real rape tried on the Circuits in England there were on the average twelve pretended cases! In some few instances, these false charges are set aside by medical evidence, but perhaps in the majority, they are developed by the inconsistencies in the statements of the prosecutrix herself.

Note.—This appears with great force to this country, as the experience of every Judicial Officer will prove.

Medical evidence in rape may be derived from four sources; 1st, Marks of violence about the genitals; 2d, Marks of violence on the person of the prosecutrix or prisoner; 3d, The presence of certain stains on the clothes of the prosecutrix or prisoner; 4th, The existence of gonorrhea or syphilis in one or both. This evidence will vary according to the following circumstances.

CHAPTER II.

RAPE OF YOUNG CHILDREN.

In these cases the sexual organs present traces of injury if there has been any resistance whatever on the part of the child; for it is impossible to conceive that any forcible intercourse should have taken place without the production of such marks, the effusion of blood, or the laceration of the pudendum.

When there are no marks of violence or physical injury about the pudendum of a young child, whether, because none originally existed, or they had existed and disappeared by time, no medical conclusion can be formed.

On the other hand, if marks of mechanical violence are present, they must not be hastily assumed as furnishing proof of rape; for cases are recorded, where such injuries have been purposely produced on young children, as a foundation for false charges against individuals. The proof or disproofs of facts of this kind must rest more upon general, than upon medical evidence.

It should be remembered that the hymen is not always present in young children: it may be, according to some, congenitally deficient, or what is more probable, it may have

been removed by ulceration or suppurative inflammation of the parts, a disease to which female infants of a strumous habit are very subject. The mere absence of the membrane therefore can afford no proof of the crime, unless we find traces of its having been recently torn by violence.

The existence of a purulent discharge from the vagina has been erroneously adduced as a sign of rape in these young subjects. The parents, or other ignorant persons, who examine the child, often look upon this as a positive proof of impure intercourse, and perhaps lay a charge against an innocent person who may have been observed to take particular notice of the child. If the child be labouring under syphilis or gonorrhea, this is positive evidence of impure intercourse either with a ravisher or some other person, but we should be well assured, before forming an opinion, that the discharge is of a gonorrheal, and not simply of a common inflammatory character. The party accused might be at the time free from the disease, or if labouring under it, then we should expect that the discharge suddenly made its appearance in the child with the usual severe symptoms, at a certain interval of time after the presumed intercourse, *i. e.* about the third, fourth, or fifth day. When these conditions do not exist, it is extremely difficult to form a medical opinion on the subject, since there are no means of distinguishing these sporadic discharges from those which are gonorrheal. Under these circumstances proof must be derived from non-medical sources. With respect to marks of violence on the body of the child, these are seldom met with, because no resistance is commonly made. Bruises or contusions may occasionally be seen on the lower extremities.

CHAPTER III.

RAPE ON YOUNG FEMALES AFTER PUBERTY.

When the crime is committed on a female from the age of ten to twelve years, the facts are much the same as those already referred to with respect to children below the age of ten years. There is, however, some difference in the legal complexion of the offence. If carnal intercourse be had with the consent of a female between the age of ten and twelve years, the offender is guilty of a misdemeanour only. Above the age of twelve years, the consent of the female does away with any imputation of legal offence. Females who have passed this age, are considered to be capable of offering some resistance to the perpetration of the crime; and therefore in a true charge, we should not only expect to find marks of violence about the pudendum, but also injuries of greater or less extent about the body and extremities.

CHAPTER IV.

RAPE ON THE MARRIED.

The remarks already made, apply here, with this difference, that where the female has already been in habits of intercourse with the other sex, there is commonly much less injury done to the genital organs. Still as the intercourse is presumed to be against the consent of the woman, it is most likely that under proper resistance, some injury will be done to the pudendum, and there will also, most probably, be extensive marks of violence on the body and extremities. Such cases are generally settled without medical evidence from the

statement of the female alone, corroborated, as it should be, by circumstances. When a charge of this kind is made by a prostitute, it is very justly received with suspicion, and the case is narrowly scrutinized. The question turns here, as in all cases of rape upon adult females, on the fact of consent having been previously given or not. This is the point at which the greater number of these cases break down, and it need hardly be observed, that this question has no relation to medical considerations which can only serve occasionally to establish, whether or not sexual intercourse has been had with or without some violence. It is obvious, that there may be marks of violence on the person, and yet the conduct of the female may have been such as to imply consent on her part. We must not suppose, as appears to be commonly done, that medical proof of intercourse is tantamount to proof of rape.

Some medical jurists have argued, that a rape cannot be perpetrated on an adult female of good health and vigour, and they have treated accusations under these circumstances, as false. Whether an alleged rape has been committed, is of course a question of fact for a Court; it can only be determined from the evidence of the prosecutrix and other witnesses; but setting aside the cases of infants, lunatics, and weak and delicate females, it does not appear probable that intercourse could be accomplished against the consent of a healthy adult female, except under the following conditions. 1st. When narcotics or intoxicating liquids have been administered to her, either by the prisoner or through his collusion. 2d. When a woman falls into a syncope from terror or exhaustion. 3d. When several persons are combined against the female, in which case we may expect to find considerable marks of violence about her person. 4th. A woman may yield to a ravisher, under threats of death or duress, in which

case her consent does not excuse the crime, but this is rather a legal than a medical question.

It is necessary to observe in relation to the examination of females, that the marks of rape, however strong in the first instance, soon disappear or become obscure, especially in those who have been already habituated to sexual intercourse. After two, three, or four days, unless there has been a very unusual degree of violence, no traces of the crime may be found about the genital organs. In unmarried females and in children, where there has been much violence, these marks may persist, and be apparent for a week or longer. Supposing at the time of examination, no such marks exist, it may be necessary to consider whether there has been time for them to disappear since the alleged perpetration of the offence; but no one can then express an affirmative opinion as to the commission of the crime; this must be left to be proved by the general and circumstantial evidence. Marks of violence on the person can never establish a rape; they merely indicate, cœteris paribus, that the crime has been attempted.

Sometimes the body of a female is found dead, and it is required to determine whether or not her person has been violated before death. There is here some difficulty, because in the absence of a statement from the prosecutrix herself we can seldom do more than express a conjectural opinion from the presence of marks of violence on the person, and about the genital organs, and must leave the rest to circumstantial evidence.

CHAPTER V.

CRIMINAL ABORTION.

By abortion is generally understood in medicine, the expulsion of the contents of the uterus before the sixth month

of gestation: if the expulsion takes place between the sixth and ninth month, the woman is said to have a premature labour. The Law makes no distinction of this kind, but the term abortion is applied to the expulsion of the fœtus at any period of pregnancy. Criminal abortion is rarely attempted before the third month: these cases perhaps most commonly occur between the fourth and fifth month.

The cause of abortion may be either *natural* or *violent.* The latter only falls under the cognizance of the Law: but it is necessary to be well acquainted with and bear in mind the causes which are called natural, in contradistinction to others which depend on the application of violence. These causes are commonly ascribable to peculiarities in the female system, to the presence of uterine diseases, or to some moral shock sustained by the woman during pregnancy. The violent causes of abortion may be of an accidental, or criminal nature. In general, the distinction will not be difficult: the kind of violence, and the adequacy of the alleged cause to produce it, will commonly clear up the case.

Criminal causes. These are either mechanical, or they depend on the use of irritating medicinal substances. Although mechanical means are more effectual in inducing abortion, than medicinal substances, yet from the fact of such attempts being made by ignorant persons, the woman generally dies from hysteritis, peritonitis, or other serious after-consequences. These mechanical means can seldom be applied to the uterus, without leaving marks of violence on that organ, as well as on the body of the child. If the mother die, a result which generally takes place, an inspection of the body, will at once settle the point. If the mother survive and the child is expelled, then marks of violence will be on its body. These marks may not be sufficient to account for death, but that is not here the question. If it can be proved that they have

not resulted from accidental causes subsequently to delivery, then their presence will furnish strong corroborative evidence of the actual means by which abortion was attempted.

Medicinal substances are perhaps more frequently resorted to for inducing criminal abortion than other means; but they rarely answer the intended purpose, and when this result is obtained, it is generally at the expense of the mother. Mineral poisons have been ignorantly employed for this nefarious object, as arsenic, corrosive sublimate, sulphate of copper, and other irritants. Croton oil, gamboge, aloes, elaterium and other drastic purgatives, have also been used for a similar purpose. Purgatives which produce much tenesmus, or powerful emetics, or diuretics, will readily excite abortion in the advanced stages of pregnancy; but these violent medicines fail in their effect at the earlier stages. The substances just mentioned have an indirect action on the uterus by producing a shock to the general system, but it is said there is a certain class of bodies called emmenagogues, which have a specific action on the uterus itself. Among substances which have acquired popular repute as abortives are savin, rue, iron filings, squills, black helebore, and cantharides. None of them have any influence on the uterus, except in affecting it indirectly by their irritant action on the system.

Note.—It may be feared that this crime prevails in this country to a far greater extent than we have any accurate idea of, and I am inclined to believe that mechanical means are very usually resorted to.

BOOK V.

INSANITY—UNSOUNDNESS OF MIND.

CHAPTER I.

FORMS OF INSANITY.

Insanity may be original and natural, and is then usually termed idiocy, or it may occur as a disease in individuals who have once enjoyed sound reason, and is then commonly called lunacy.

"Unsoundness of mind" is an expression which, though apparently equivalent to "Insanity," the English Law seems to have reserved to designate rather the state of legal incapacity of intellect to manage affairs, than any particular morbid condition producing that incompetency: a man may be of unsound mind, *i. e.* legally incompetent to the controul of his property, and yet not come up to the strict legal standard of Lunacy or Idiocy.

Insanity may be classified under four distinct forms. Mania, Monomania, Dementia, and Idiocy; this division is highly convenient for the arrangement and classification of the facts connected with the subject. In some instances, there is great difficulty in assigning a particular case to either of these divisions, owing to the circumstance of these states of mind being frequently intermixed, and apt to pass and repass into each other; while on other occasions, a case may

present characters which appertain to all divisions. In this place it will only be necessary to state briefly the principal features of each of these varieties of insanity.

CHAPTER II.

MANIA.

In this form of insanity there is general derangement of the mental faculties, accompanied by greater or less excitement, sometimes amounting to violent fury. The individual is subject to hallucinations and illusions, the difference in the meaning of which terms it may be here proper to explain. *Hallucinations* are those sensations which are supposed by the patient to be produced by external impressions, although no material objects act upon the senses at the time. *Illusions* are sensations produced by the false perception of objects. When a man fancies he hears voices while there is profound silence, he labours under a *hallucination:* when he imagines that his ordinary food has an earthy or metallic taste, this is an *illusion.* Illusions sometimes arise from internal sensations, and give rise to the most singular ideas. When a hallucination or illusion is believed to have a real and positive existence, and this belief is not removed either by reflection, or an appeal to the other senses, the individual is said to labour under a delusion ; but when the false sensation is immediately detected, and is not acted on as if it were real, then the person is sane. Perhaps this is the most striking distinction between sanity and insanity. The acts of the insane are generally connected with their delusions ; but it is extremely difficult to trace the connection between them except by their own confession. It has been remarked that in mania there is great insensibility to changes of tempera-

ture; but it must not be inferred from this, that the patient is less susceptible than a sane person of the injurious effects of cold. The bodily susceptibility of insane persons is just as great, while they want that warning power, which the sense of feeling gives to one who is sane.

It is necessary that a medical jurist should be able to distinguish mania, from *delirium* depending on bodily disease. Delirium very closely resembles the acute form of mania, so closely that mistakes have occurred, and persons labouring under it have been ordered into confinement as maniacs. The following are perhaps the best diagnostic differences. A disordered state of the mind is the first symptom remarked in mania, while delirium is a result of bodily disease, there is also greater febrile excitement than in mania. Delirium being a mere symptom attendant on the disease which produces it, exists so long as that disease, and no longer; while mania, depending on very different causes, is persistent. Delirium disappears suddenly, leaving the mind clear, while mania commonly experiences only remissions.

CHAPTER III.

MONOMANIA.

This name is applied to that form of insanity in which the mental alienation is partial. The delusion is said to be confined to one subject or to one class of subjects. One fact is well ascertained, that it varies much in degree; for many persons affected with monomania are able to direct their minds with reason and propriety to the performance of their social duties, so long as they do not involve any of the subjects of their delusions. Further they have occasionally an extraordinary power of controlling their thoughts and emo-

tions, and concealing the delusions under which they labour. This implies a consciousness of their condition, not met with in mania; and it also appears to imply such a power of self controul over their thoughts and actions, as to render them equally responsible with a sane person for many of their acts. In a real case of monomania, it is not to be supposed that a man is insane upon one point only, and sane upon all other matters. The only admissible view of this disorder, is that which was taken by Lord Lyndhurst, in one of his judgments. "In monomania, the mind is unsound; not unsound in one point only, and sound in all other respects, but this unsoundness manifests itself principally with reference to some particular object or person." There is no doubt that all the mental faculties are more or less affected; but the affection is more strikingly manifested in some, than in others. Monomania is very liable to be confounded with eccentricity: but there is this difference between them. In monomania, there is obviously a change of character, the individual is different to what he was; in eccentricity, such a difference is not remarked: he is, and always has been singular in his ideas and actions. An eccentric man may be convinced, that what he is doing is absurd, and contrary to the general rules of society, but he professes to set these at defiance. A true monomaniac cannot be convinced of his error, and he thinks that his acts are consistent with reason, and the general conduct of mankind. Eccentric habits *suddenly* acquired are, however, presumptive of insanity.

Most medico-legal writers admit that insanity is not necessarily confined to the intellectual powers; but that it may also show itself without decided intellectual aberration, in the feelings, passions, and emotions. Thus it may appear under the form of a causeless suspicion, jealousy, and hatred of others, especially of those, to whom the individual ought to

be attached; and it may also manifest itself under the form of a wild, reckless, and cruel disposition. This is what has been called by Dr. Prichard, "Moral insanity," to distinguish it from the other form affecting the mental powers, namely, "Intellectual insanity." It is however, very doubtful whether moral insanity ever exists in any individual without greater or less disturbance of the intellectual faculties. The mental powers are rarely disordered without the moral feelings partaking of the disorder, and conversely it is not to be expected that the moral feelings should become to any extent perverted, without affecting the intellect. The intellectual disturbance may be difficult of detection, but in every case of true insanity there is no doubt that it exists, and it appears dangerous to pronounce a man insane where it does not *obviously* exist. The law does not at present recognize insanity of the affections only; hence, however perverted these may be, a medical jurist must look for some indications of intellectual disturbance. Monomania may be accompanied with a propensity to homicide or suicide, and according to many phsychologists, with a disposition to incendiarism or theft. These forms will be referred to hereafter in speaking of the criminal responsibility of the insane.

CHAPTER IV.

DEMENTIA.

In this state there is a total absence of all reasoning power; the mental faculties are not perverted, but destroyed. There is a want of memory, as well as a want of consciousness on the part of the individual, of what he does or says. It is by no means an unfrequent consequence of mania, or monomania, but it has been known to occur suddenly in individuals, as an effect of a strong moral shock.

CHAPTER V.

IDIOCY.

Idiocy is characterized by the want of mental power being congenital. This intellectual deficiency is marked by a peculiar physiognomy, an absence of all expression, and a vague and unmeaning look, whereby an idiot may in general be clearly identified. In some cases of congenital deficiency the mind is capable of receiving a few ideas, and of profiting to a certain extent by instruction. To this state the term "*Imbecility*" is applied. It may be regarded as a minor degree of idiocy. The minds of imbeciles can never be brought to a healthy standard of intellect like that of an ordinary person of the same age.

Persons affected with idiocy and imbecility do not suffer from hallucinations and illusions like those who labour under mania or monomania. Idiots and imbeciles are what they always have been: there is no gradual loss or impairment of the intellectual functions. The term imbecility is often applied to that loss of mental power, which takes place as a result of extreme age: but this is with greater propriety called "Senile dementia."

CHAPTER VI.

FEIGNED INSANITY.

Insanity is frequently feigned by persons accused of criminal offences, in order to procure an acquittal or discharge. In the first place, when this is suspected it will be proper to enquire, whether the party have any motive for feigning the

malady. It is necessary to remember that insanity is never assumed until after the commission of a crime, and the actual detection of the criminal. No one feigns insanity merely to avoid suspicion. In general, as in most cases of imposture, the part is overacted, the person does too much or too little, and betrays himself by inconsistencies of conduct and language never met with in real cases of insanity. There is commonly some probable cause to which real insanity may be traced, but when the malady is *feigned*, there is no apparent cause: in this case also, the appearance of the assumed insanity is always sudden: in the real malady, the progress of the attack is commonly gradual, and when the attack is really sudden then it will be found to be due to some great moral shock, or other very obvious cause. We should observe whether there has been any marked change of character in the individual, or whether his conduct, when he had no interest to feign, was such as it is now observed to be. Some difficulty may arise when fits of eccentricity or strangeness of character, are deposed to by witnesses; but these statements may be inconsistent with each other, and his previous actions may bear no resemblance whatever to those performed by him in the recently assumed condition. A difficulty of this kind rarely presents itself, since in an impostor, no act indicative of insanity can be adduced for any previous period of his life; it is only after the perpetration of a crime, and its detection, that any acts approaching to insane habits will be met with. In *real* insanity, the person will not admit that he is insane; in the *feigned* state all his attempts are directed to make you believe that he is mad: if told that he is insane, he does not contradict you: and an impostor may be induced to perform any act, if it be casually observed to another in his presence that the performance of such an act will furnish still stronger evidence of his insanity.

Mania is perhaps more frequently assumed than any other form, because the vulgar notion of insanity is, that it is made up of violent action, and vociferous and incoherent language: but mania rarely comes on suddenly, or without an obvious cause: the patient is also equally furious night and day, while the impostor is obliged to rest after his violent exertions. In mania the person sleeps but little, and the sleep is disturbed: an impostor sleeps as soundly as a healthy individual: the violence of the maniac continues whether he is alone or not, while the impostor acts his part only when he thinks he is observed: hence the imposition may be detected by watching him, when he is not aware that any eye is directed upon him.

Some stress has been laid on the fact that assumed insanity commonly appears suddenly, and without probable cause; but while this may be allowed to have a general value in forming a diagnosis, it is proper to bear in mind that the actual commission of a crime has sometimes suddenly led to an attack of mania in a previously sane person.

The feigning of monomania would be a matter of some difficulty, and easily susceptible of detection. Dementia is more easily feigned: in general this state comes on slowly, and is obviously dependent on organic changes, as old age, apoplexy, paralysis, or hemiplegia, or it is a consequence of long continued mania or monomania. As this form of insanity consists in an entire abolition of all mental power, so the discovery of any connected ideas, reasoning, or reflection, either by language or gestures, would at once show that the case was not one of real dementia. Idiocy and imbecility could hardly be feigned successfully, because these are states of congenital deficiency; and it would be easy to show, by reference to the past life of a person, whether or not he had

always been such as he represents himself. The difficult cases of feigned insanity are really limited to those forms of the malady which are liable to attack an individual suddenly. In a sudden attack of real insanity, there should be some obvious cause: the non-existence of this, with the presence of a strong motive for deception, will always justify a suspicion that the malady has been assumed.

The following is a case of feigned insanity which was the subject of a trial in London, in 1833. A married woman, aged fifty, was charged with uttering a forged cheque: she had craftily procured the signature of a person under a false pretence, and then forged his name in the cheque. When required to plead, she made no answer, and appeared unconscious of the question. She took up some flowers placed in the dock and crumbled them in her fingers, which were in continual motion. She stared wildly at times, changing her position, turned her back on the Court, muttered indistinct exclamations, and made a humming noise. She was placed under some restraint in order to prevent her jumping out of the dock. The first question which the jury were directed to try, was, "whether she were of sound mind or not,"—it being a rule of law, that no insane person can be called on to plead to an offence committed by him. Evidence was then adduced to show, that at previous periods of her life she had used incoherent language, and was strange in her conduct. It was also shown that her mother, aunt, and sister, had been insane. Dr. Elwins deposed that at first he thought the prisoner was feigning; for she appeared to be fully aware of the importance of a plea of insanity, but when he heard that other members of her family had had the disease, he was induced to think her insane, and not accountable for her actions. Another medical witness, who had attended her family professionally, and had known the prisoner long, thought she was

not insane, although he allowed that the apprehension of a criminal charge might bring on an attack of insanity in a mind subject to aberration. Other witnesses deposed that they had never observed any acts of insanity about her; and it was further proved that she was well acquainted with the method of drawing and procuring money on bills. When arrested she tried to escape from the officer, and conceal the money which she had procured by means of the forged cheque. The Surgeon of the Jail thought she was feigning; he visited her daily, and he observed that her manner was changed so soon as she saw him. When asked what counsel she would employ, she returned a rational answer saying that " others would take care of that." When charged with feigning she made no observation. She put on a wild look when she knew she was observed; but when privately watched, her behaviour was that of a rational person; she generally slept soundly. The jury returned that she was of sound mind. She was then called on to plead to the charge; but she refused, a circumstance rarely observed in the conduct of a really insane person. She was tried and found guilty of the charge.

There could be no reasonable doubt that this woman was an impostress, and that she feigned insanity, well knowing what would be the result of the plea if admitted. Two circumstances rather tended to complicate the case:

1. The proof of hereditary predisposition.

2. Her assumed silence whereby she did not easily betray herself. In regard to hereditary predisposition, although valuable as collateral evidence, it cannot, of course, be allowed to outweigh general facts indicative of perfect sanity.

CHAPTER VII.

CRIMINAL RESPONSIBILITY OF THE INSANE.

The Law of British India on this subject is contained in Act. IV. of 1849.

"No person, who does an act which, if done by a person "of sound mind, is an offence, shall be acquitted of such of- "fence for unsoundness of mind, unless the Court or Jury, as "the case may be, in which according to the constitution of "the Court, the power of conviction or acquittal is vested, "shall find, that by reason of unsoundness of mind, not wil- "fully caused by himself, he was unconscious, and incapable "of knowing at the time of doing the said act, that he was "doing an act forbidden by the Law of the land."—Section I. Act IV. of 1849.

It is thus left for the tribunals to decide whether an accused party be or be not labouring under the "unsoundness of mind" contemplated by the Law.

The term "unsoundness of mind" must of course include all the four species of insanity spoken of in the preceding Chapter; and the question for the Court will be, whether by reason of Mania, Monomania, Dementia, or Idiocy, the accused was, at the time of committing the act charged against him, unconscious, and incapable of knowing that he was doing an act forbidden by the Law of the land.

A plea of insanity may be set up for the smallest offence up to the highest crime, murder; but in Courts where the prisoner has the benefit of advice it is rarely raised in respect

NOTE.—In the event of an accused party being acquitted on the ground of "unsoundness of mind," he is to be dealt with as prescribed in the above quoted Act (IV. of 1849) which provides for cases of return of sanity.

to smaller offences, because the close confinement to which the offender, if found insane, would necessarily be subjected, would often be a heavier punishment, than that which the Law actually prescribes for the offence which he may have committed.

As Murder, Arson, Theft, and such serious crimes constitute the cases in which criminal responsibility is most usually sought to be evaded under plea of insanity, it will be convenient to consider the subject under the following heads in separate Chapters, viz.

1. Homicidal Monomania.
2. Suicidal Mania.
3. Puerperal Mania.
4. Pyromania.
5. Kleptomania.
6. Dipsomania.

CHAPTER VIII.

HOMICIDAL MONOMANIA.

Most medical jurists admit that individuals who may not appear to labor under any intellectual aberration, are liable to be seized—by a sudden destructive impulse, under which they will destroy those to whom they are most fondly attached, or any person who may happen at the time to be involved in the subject of their delusion. Sometimes the impulse is long felt, but concealed and restrained: there may be merely signs of depression and melancholy about the individual, nothing, however, to lead to a suspicion of the fearful contention which may be going on within his mind. Occasionally the murder may be perpetrated with great deliberation and under all the marks of sanity. These cases are rendered difficult by the fact that there may be no clear proof of the existence, past or present, of any disorder of the mind, so that the chief evidence of the existence of insanity appears to be

in the act itself: of the existence of the malady before and after the perpetration of the crime, there may be either no evidence whatever, or it may be so slight as not to amount to proof. Some have looked upon such cases as instances of insanity of the moral feelings only,—"*moral insanity*," but an unrestricted admission of this doctrine would go far to do away with all punishment for crime, for it would then be impossible to draw a line between insanity and moral depravity, and the Law will not, at present, excuse an act committed through moral depravity. The works of authors on the subject abound in illustrations of this form of monomania; but one trial which occurred in England a few years since, will serve to show the difficulties which these cases present.

A man named Greensmith was charged with the murder of four of his young children. The facts here to be related were partly brought out in evidence, and partly by his own confession. He was a man of industrious habits and an affectionate father; but having fallen into distressed circumstances he destroyed his children by strangling them, in order, as he said, that they might not be turned into the streets. The idea only came to him on the night of his perpetrating the crime. After he had strangled two of his children in bed, he went down stairs, where he remained some time; but thinking that he might as well suffer for all as for two, he returned to the bed room, and destroyed the two whom he had left alive. He shook hands with them before he strangled them. He left the house and went to a neighbour's, but said nothing of the murder until he was apprehended the next day, and taken before the Coroner, when he made a full confession. Not one of the witnesses had ever observed the slightest indication of insanity about him. He made no defence, but several humane medical practitioners came forward to depose that he was insane. The Surgeon of the Jail said that the man was feverish,

complained of headache, and had been subject to disturbed sleep and sudden starts since the death of his wife, a short time before. He spoke of the crime he had committed without the slightest excitement, and the witness said he had heard enough of the evidence to satisfy him that the prisoner could not have committed such a crime as this, and be in a sane state of mind. Dr. Blake, Physician to the Nottingham Lunatic Asylum, said he was satisfied that the prisoner laboured under a delusion of mind. The prisoner's grandmother and sister had been under his care, the latter for entertaining a similar delusion, namely, that of destroying herself and her children. The Judge declined receiving this evidence; and under his direction the prisoner was found guilty, and sentence of death was passed upon him. By the active interference of Dr. Blake and others, he was respited on the ground of insanity.

Nicholas Steinberg cut the throats of his wife and four children. One Lucas destroyed his three children in 1842. A man named Giles, cut the throats of two of his infant children in 1843. In all these cases the unexpected act of murder was accompanied by suicide. They may be regarded as fearful examples of homicidal mania, in which there were no previous symptoms indicative of insanity, or any irregularity of conduct on the part of the homicides, to justify the least interference with their civil liberty. One remarkable feature in these cases is, that the murderous act is commonly directed against those who are most closely connected with the homicides in blood, and to whom they are attached by the tenderest ties.

It is impossible that such crimes as these can be regarded as the acts of sane individuals, and even those who are the most sceptical on the subject of such a form of insanity as "homicidal monomania," are compelled to admit that these

dreadful, motiveless murders are the acts of insane, and therefore irresponsible agents. It may be a dangerous doctrine to adduce the crime as evidence of insanity, but these cases clearly prove that there are some instances in which this is the only procurable evidence. Had not the homicides above mentioned destroyed themselves, it is almost morally certain that they would have been acquitted on the ground of insanity. In the case of one Staninought this actually took place:—this man who had attempted suicide recovered, was tried and acquitted on the ground of insanity; but afterwards destroyed himself.

Admitting then the existence of this state of homicidal monomania, it will become a question, how, when pleaded for one charged with murder, it is to be distinguished from a case where the crime has been perpetrated by a really sane person. Tests, both medical and legal, have been proposed. The legal test has been lately explicitly given in England, by the whole of the Judges in conference, in answer to queries put by the House of Lords in reference to the case of McNaughten: lately tried and acquitted on the ground of insanity, 1843.

"The Jury ought in all cases to be told that every man "should be considered of sane mind until the contrary were "clearly proved in evidence. That before a plea of insanity "should be allowed, undoubted evidence ought to be adduced "that the accused was of a diseased mind, and that at the "time he committed the act, he was *not conscious of right or* "*wrong*. Every person was supposed to know what the law "was, and therefore nothing could justify a wrong act, except "it was clearly proved that the party did not know right "from wrong. If that was not satisfactorily proved, the ac-"cused was liable to punishment.

" If the *delusion* under which a person laboured were only " *partial*, the party accused was equally liable with a person " of sane mind."

It would appear from this that the law in order to render a man responsible for a crime, looks for a consciousness of right and wrong, and a knowledge of the consequences of the act. Thus, as it was laid down by the Judge in Greensmith's case, " the complete possession of reason is not essential to constitute the legal responsibility of an offender," and it is also to be inferred from the results of several cases, that a man may be civilly incompetent, but sufficiently sane to be made criminally responsible. The proofs required in the two cases are essentially distinct.

It has been very properly objected to this legal test, that it is insufficient for the purpose intended; it cannot enable us to distinguish the insane homicide from the sane criminal. Many insane persons have committed acts which they knew to be wrong, and of the criminality of which they were at the time perfectly conscious. They have been known to murder others, in order to receive the punishment of death at the hands of the law; and, therefore, they must have known that the act which they were perpetrating was an offence against the law of man. In short, the criminal nature of the act has often been the sole motive for its perpetration!

In Greensmith's case there was no doubt that the man knew he was doing wrong and what was contrary to law; for after having murdered two of his children, he returned and murdered the others, " *considering that he might as well suffer for all as for two*"! The case of Hadfield, who was tried for shooting at George III. and acquitted on the ground of insanity, furnishes another striking example of the existence of insane delusion, coupled with a full knowledge of the

consequences of the act which he was about to commit. He knew that in firing at the king he was doing what was contrary to law ; and that the punishment of death was attached to the crime of assassination : but the motive for the crime was that he might be put to death by others,—he would not take his own life. Again, Martin, the incendiary, admitted that he knew he was doing wrong according to the law of man, when he set fire to York Cathedral : he was conscious that the act was illegal, but he said he had the command of God to do it. Thus then we find a full consciousness of the illegality or wrongfulness of an act may exist in a man's mind, and yet he may be fairly acquitted on the ground of insanity. It seems then extraordinary that " a consciousness of right or wrong" at the time of the perpetration of a crime, should be still upheld as the only legal test to distinguish a sane from an insane perpetrator. The rule cannot be carried out without inflicting the punishment of death on many really insane persons :—and it is perhaps sufficient to say, that circumstances frequently occur which render its relaxation imperatively necessary.

It will now be proper to examine the tests which have been proposed by medical jurists for detecting these cases of homicidal mania.

1. *These acts of homicide have generally been preceded by other striking peculiarities of conduct in the individual, often by a total change of character.*

2. *They have in many instances, previously attempted suicide : they have expressed a wish to die or to be executed as criminals.*

These supposed criteria have been repeatedly and very properly rejected, when tendered as evidence of insanity in courts of law. They are of too vague a nature, and apply as much to cases of moral depravity as of actual insanity : in short, if

these were admitted as *proofs*, they would serve as a convenient shelter from punishment for most criminals.

3. *These acts are without motive : they are in opposition to all human motives. A man murders his wife and children, known to have been tenderly attached to them : a mother destroys her infant.*

It is hereby assumed or implied that sane men never commit a crime without an apparent motive ; and that an insane person never has a motive, or one of a delusive nature only, in the perpetration of a criminal act. If these positions were true, it would be very easy to distinguish a sane from an insane criminal ; but the rule wholly fails in practice. In the first place, the *non-discovery* is here taken as a proof of the *non-existence* of a motive ; while it is undoubted that motives may exist for many atrocious criminal acts, without our being able to discover them ; a fact proved by the numerous recorded confessions of criminals before execution, in cases where, until these confessions had been made, no motive for the perpetration of the crimes had appeared to the acutest minds. It is clear, that if before inquiring into the perpetration of a murder, the law were to search for motives, and rest the responsibility of an accused party upon the accidental discovery of what ought to be deemed a *reasonable* motive (!) many most atrocious criminals would necessarily go unpunished, and some lunatics be executed. Besides, if one accused person is to derive benefit from an apparent absence of motive, there is no reason why the same benefit should not be extended to all who are charged with crimes. In the case of Courvoisier who was convicted of the murder of Lord William Russell in June, 1840, it was the reliance upon this fallacious criterion, before the secret proofs of guilt accidentally came out, that led many to believe he could not have committed the crime ; and the " absence of motive" was urged by his counsel as the

strongest proof of the man's innocence. It was ingeniously contended "that the most trifling action of human life had its spring from some motive or other." This is undoubtedly true, but it is not always in the power of a man untainted with crime, to detect and unravel the motives which influence criminals in the perpetration of murder. No reasonable motive was ever discovered for the atrocious murders and mutilations perpetrated by Greenacre and Good, yet these persons were very properly made responsible for their crimes. On the trial of Francis for shooting at the Queen, the main ground of defence was that the prisoner had no motive for the act, and therefore was irresponsible, but he was convicted. It is difficult to comprehend under what circumstances any motive for such an act as this could exist; and therefore the admission of such a defence would have been like laying down the rule, that the evidence of the perpetration of so heinous a crime should in all cases be taken as proof of irresponsibility!

Crimes have been sometimes committed without any apparent motive, by sane individuals, who were at the time perfectly aware of the criminality of their conduct: no mark of insanity or delusion could be discovered about them, and they had nothing to say in their defence. They have been very properly held responsible. On the other hand, lunatics confined in a lunatic asylum have been known to be influenced by motives in the perpetration of crimes. Thus they have often murdered their keepers out of revenge for ill-treatment which they had experienced at their hands. On the whole, the conclusion with respect to this assumed criterion is, that an absence of motive may, where there are very strong evidences of insanity, favor the view of irresponsibility for crime; but the non-discovery of a motive for a criminal act, cannot of itself be taken as any proof of the existence of homicidal monomania in the perpetrator.

4. *The subsequent conduct of the individual; he seeks no escape, delivers himself up to justice, and acknowledges the crime laid to his charge.*

This is indeed commonly characteristic of homicidal mania; for by the sane criminal every attempt is made to conceal all traces of the crime, and he denies it to the last; but it must be remembered that sane persons who destroy the lives of others through revenge or anger, often perpetrate murder openly, and do not attempt to deny or conceal the crime, knowing that denial or attempt at concealment would be hopeless. Again, a morbid love of notoriety will often induce sane criminals to attempt assassination under circumstances, where the attempt must necessarily be witnessed by hundreds, and there can be no possibility of escape. The attacks which have been made on the life of the present Queen, are sufficient to bear out this statement.

5. *The sane murderer has generally accomplices in vice or crime; the homicidal monomaniac has not.*

This is a weak criterion; for some of the most atrocious murders committed in modern times, as those perpetrated by Greenacre, Good, Courvoisier, and others, were the acts of solitary individuals, who had neither accomplices nor any assignable inducements leading to the commission of the crimes; yet notwithstanding the absence of motives, and the want of accomplices, it is impossible to doubt that they were very properly held responsible.

The case of Francis who was tried and convicted for shooting at the Queen, will show that no value is placed upon these criteria by the law. Here was evidence of the act being without motive, of its having been perpetrated openly—of the individual seeking no escape by flight, but delivering himself up to justice, and of there being no accomplices in vice or crime—but still he was very properly held responsible

for the act. The criteria above given can hardly be described as medical ;—they are circumstances upon which a non-professional man may form as safe a judgment as one who has made insanity a special study.

The presence of delusion has been said to characterise an act of homicidal monomania, while premeditation, precaution, and concealment have been considered the essential features of the act of a sane criminal. With respect to delusion it has been decided that the mere proof of the existence of this does not excuse an act ; if the delusion be *partial*, the party accused is still responsible ; and if the crime were committed in revenge for an imaginary injury he would be equally responsible. Much stress was formerly laid upon the delusion being connected with the act in cases of insanity ; but it must be remembered that, except by the confessions of insane persons during convalescence, it is not commonly easy for a sane mind to connect their most simple acts with the delusions under which they labour. Every act of homicide perpetrated by a really insane person is doubtless connected with some delusion with which he is affected ; but it by no means follows, that one who is sane should always be able to make out that connection ; and it would be therefore unjust to rest the irresponsibility of the accused upon an accidental discovery of this kind. Premeditation and precaution are met with in crimes committed both by sane and insane criminals, although these, with subsequent concealment, are certainly strong characteristics of sanity. It is also a question, whether, when they are proved to have existed in any criminal act, there might not have been such a power of self-control in the individual as to justify the application of punishment. Are such individuals more beyond the influence of example than one-half of the criminals who are punished ?

The foregoing considerations lead to the inference, that

there are no certain legal or medical rules, whereby homicidal mania may be detected. Each case must be determined by the circumstances attending it ; and the true test for irresponsibility appears to be, if it could be practically applied, whether the individual, at the time of the commission of the crime, had or had not a sufficient power of control to govern his actions. A test somewhat similar to this, is constantly applied to distinguish murder from manslaughter ; and it is quite certain that sanity and homicidal mania, are not more nicely blended, than are occasionally the shades of guilt whereby murder passes into manslaughter. The manner in which a crime is committed, will often allow a fair inference to be drawn, as to how far a power of self-control existed. A man in a violent fit of mania rushes with a drawn sword into an open street and stabs the first person whom he meets, another, worn out by poverty and destitution, murders his wife and children to prevent them starving, and then probably attempts to murder himself ; these are cases in which there is fair ground to entertain a plea of irresponsibility ; but when we find a man lurking for many days together in a particular locality having about him a loaded weapon,—watching a particular individual who frequents that locality—a man who does not face the individual and shoot him, but who coolly waits until he has an opportunity of discharging the weapon unobserved by his victim or others,—the circumstances appear to show such a perfect adaptation of means to ends, that one is quite at a loss to understand, why a plea of irresponsibility should be admitted except upon the fallacious ground, that no motive could be discovered for the act,—a ground, however which was not allowed to prevail in the case of Francis, and the perpetrators of other atrocious crimes.

The facts here referred to apply to the case of McNaughten, who was tried for the murder of Mr. Drummond, (in

1843,) and acquitted on the ground of insanity. There is hardly a doubt that had the deceased given any personal offence to this individual, before the perpetration of the act, he would have been convicted; if the deceased, from feeling annoyed at his following him, had struck him, or pushed him away before the pistol was fired, it is most probable that the plea of insanity would not have been received. In the acquittal of this man, it is evident that considerable importance was attached to the non-discovery of a motive; for had any kind of motive been apparent, it is pretty certain that an alleged homicidal climax occurring at the particular moment when the deceased's back was turned, and after several days watching on the part of the assailant, would not have been admitted as a sufficient exculpatory plea. If we except the case of Oxford, tried for shooting at the Queen, there is perhaps no case on record in English Jurisprudence where the facts in support of the plea of insanity were so slight; and when the cases of Bellingham, Lees, and Cooper, are considered, the two latter tried and executed within the last few years, it must be evident that there is both uncertainty and injustice in the operation of the criminal law. Either some individuals are most improperly acquitted on the plea of insanity, or others are most unjustly executed. If the punishment of death were abolished, there is no doubt that less would be heard of this plea, but in the meantime, it is unfortunate that there is no other way of evading capital punishment, than by making it appear that the criminal was insane. That this kind of evidence is being carried too far, will be apparent from the observation of Mr. Baron Gurney, in the case of the King *v.* Reynolds, where the Judge said that the defence of insanity had lately grown to a fearful height, and the security of the public required that it should be watched. So also Mr. Justice Coltman, in the case of the Queen *v.* Weyman,

remarked that "the defence of insanity was one which was to be watched with considerable strictness, because it was not any slight deviation from the conduct which a rational man would pursue under a given state of circumstances, which would support such a line of defence."

Some doubt has existed whether a medical witness, on a trial in which the plea of insanity is raised, could be asked his opinion respecting the state of the prisoner's mind at the time of the commission of the alleged crime, whether the accused was conscious at the time of doing the act—that he was acting contrary to law, or whether he was then labouring under any and what delusion. It has been now decided by fourteen Judges out of fifteen, that facts tending to lead to a strong suspicion of insanity must be proved and admitted, before the opinions of medical witnesses can be received on these points.

It is proper that a medical witness should remember, in examining an accused party, who is alleged to have committed a crime while labouring under insanity, that the plea may be good, and yet the individual be sane, when examined. This was observed in the case of a lunatic, who killed his mother in 1843. There was no doubt that he was insane at the time of the act; but two days afterwards, he was found to be of perfectly sound mind. This sudden restoration to reason, is sometimes met with in cases of homicidal mania.

Suicidal Mania. In monomania, especially in that form which is called melancholia, there is often a strong propensity to the commission of suicide. This may proceed from sudden impulse, or from delusive reasoning. Suicidal mania is susceptible of being spread by imitation, more es-

pecially where the mode of self-destruction adopted, is accompanied by circumstances of a horrible kind, or exciting great notoriety. The sight of a weapon, or a particular spot where a previous suicide has been committed, will often induce a person, who may have been hitherto unsuspected of any such disposition, at once to destroy himself. In some instances an individual fancies that he is oppressed and persecuted, that his prospects in life are ruined, when on the contrary his affairs are known to be flourishing. He destroys himself under this delusion. In cases of this description, whether arising from a momentary insane impulse, or from delusive reasoning, there cannot be a doubt that the act is one of insanity. It is very different, however, where a real motive is obviously present, as where an individual destroys himself to avoid disgrace, or impending ruin, because here the results are clearly foreseen, and the suicide calculates that the loss of life would be a smaller evil than the loss of honour and fortune. It may be urged that a motive of this kind will appear insufficient to the minds of most men ;—but what known motive is there sufficient to account for parricide, infanticide, or any other crime of the like horrible nature ? We must allow either that all crime is the offspring of insanity, or that suicide is occasionally the deliberate act of a sane person. To say, that suicide is always, *per se*, evidence of insanity, is to say substantially, that there is no criminality in self-murder ; for it is impossible to regard that act as a crime, which is committed under a really insane delusion.

The law of England, however, very properly treats suicide as felony ; those who have attempted and failed in its perpetration are treated as sane and responsible agents, unless there should be very clear evidence of insanity.

Many recent cases can be quoted to show that the act of suicide is not treated by the law as a necessary proof of insa-

nity ; and therefore the ingenious arguments which have been held on this subject, have but little interest for the medical jurist in a practical view. It has been elsewhere stated, that acts of suicide have been mistaken for homicide, merely because the deceased had expressed no intention of destroying himself, and had manifested no disposition to the act by his previous conduct. This, however, is a very fallacious view of the subject ; since suicide from sudden impulse is by no means unfrequent ; and even where the act bears about it marks of deliberation, it is not to be expected that the individual should announce his intention, for this would be a sure way of defeating his object. Perhaps one of the most remarkable instances of suicide from sudden impulse, is the following, which is related by Sir Charles Bell.

Many years since one of the Surgeons of the Middlesex Hospital, was in the habit of going every morning to be shaved by a barber in the neighbourhood, who was known as a steady, industrious man. One morning some conversation arose about an attempt at suicide which had recently occurred ; and the Surgeon remarked that the man had not cut his throat in the right place. The barber then casually enquired where the cut should have been made, and the Surgeon pointed to the situation of the carotid artery. A few minutes afterwards, the Surgeon was alarmed by hearing a noise at the back of the shop, and on rushing to the spot found that the barber had cut his own throat with the razor with which he had been shaving him. The man speedily died.

Puerperal Mania. A homicidal propensity towards their offspring, sometimes manifests itself in women, soon after parturition. It seldom appears before the third day, often not for a fortnight ; and in some instances not until several weeks after delivery. According to Esquirol, it is generally attended

by a suppression of the lochia and milk. Its symptoms do not differ from those of mania generally—it may last a few hours, or for some days or weeks. The murder of the child is generally the result of delirium : or of an uncontrollable impulse, with a full knowledge of the wickedness and illegality of the act, so that the legal test of responsibility a " knowledge of right and wrong," cannot be applied to such cases. Mothers have been known before the perpetration of the murder, to request their attendants to remove the child. Such cases are commonly known from deliberate infanticide, by there being no attempt at concealment, nor any denial of the crime on detection. Several trials involving a question of puerperal mania, have been decided within the last few years. Dr. Ashwell has remarked, that undue lactation may give rise to an attack of mania, under which the murder of the offspring may be also perpetrated.

Pyromania. This is described as a variety of monomania in which there is a morbid disposition of mind, leading to acts of incendiarism without any motive. It is said to proceed from sudden impulse, or from delusive reasoning, but most commonly the latter. It has been chiefly remarked in females about the age of puberty, and is supposed to be connected with disordered menstruation. An extraordinary instance of pyromania is quoted in the case of Jonathan Martin, who fancied himself to be deputed by God to burn down the Cathedral of York, in order to do away with the heresies which he supposed to exist in the Church. It is said to be not uncommon in young persons about the age of puberty. Admitting that a morbid impulse of this kind may exist, it should be very cautiously received as an exculpatory plea; since it might be easily converted into a means for withdrawing real criminals from all legal control.

KLEPTOMANIA. This term has been applied by Marc, to that form of monomania which manifests itself by a propensity to acts of theft. It has been remarked by him ; that this propensity has often shown itself in females far advanced in pregnancy, the motive being the mere wish of possession. Pregnancy, according to him, should be a good exculpatory plea, where a well educated woman of strict moral conduct, steals some unimportant article of no value compared with her worldly means and position in society. There are many instances on record, where well educated persons moving in a respectable sphere of society, have been guilty of petty acts of theft. The articles taken have been valueless compared with their means. Instances of this kind have been brought before the courts: and this motiveless impulse to theft has been occasionally pleaded ; but in most of these the following facts have been established by evidence ; 1. A perfect consciousness of the act. 2. The article, although of trifling value, has still been of some use to the person, thus these females have stolen articles only adapted to female use. 3. There have been art and precaution in endeavouring to conceal the theft ; and 4, a denial of the act when detected, or some evasive excuse. When circumstances of this kind are proved, either the parties should be responsible, or the theft should be openly tolerated. The evidence of a disordered state of the mind should not be here allowed to depend on the nature of the act, or every morally depraved person might bring forward a plea of insanity for any crime or offence.

DIPSOMANIA, DRUNKENNESS. This state, which is called in law, frenzy, or "*dementia affectata*," is regarded as a temporary form of insanity. Jurists and legislators have differed widely respecting the degree to which drunkards should be made responsible for their acts. When the mind of a man

is completely weakened by *habitual* drunkenness, then the law infers irresponsibility, unless it plainly appear, that the individual was at the time of the act, whether of a civil or of a criminal nature, endowed with full consciousness and reason to know its good or evil tendency.

Any deed or agreement made by a party while drunk, is not invalidated by our law, except in the case where the intoxication has proceeded so far as to deprive him of all consciousness of what he is doing; and a Court will not interfere, unless the drunkenness were the result of collusion by others for the purposes of fraud. Thus the law appears to make two states in drunkenness, one where it has proceeded to but a slight extent, and where it is considered that there is still a power of rational consent: another where it has proceeded so far, that the individual has no consciousness of the transaction, and therefore can give no rational consent. The proof of the existence of this last state would vitiate all the civil acts of a party. A confession made by a man while in a state of drunkenness, is legally admissible as evidence against him and others, provided it be corroborated by circumstances.

In a case recently tried, the prisoner confessed, while drunk, that he had committed a robbery and murder which had taken place some time before, but of which he had not been suspected. He mentioned a spot where the property of the murdered person had been concealed by him, and the whole of the circumstances of the murder. The property was found as he had described, and the case was clearly brought home to him, chiefly by collateral evidence from his own confession. He was convicted.

When homicide is committed by a man in a state of drunkenness, this is held to be no excuse for the crime. If

voluntarily induced, whatever may be its degree, it is not admitted as a ground of irresponsibility, even although the party might not have contemplated the crime when sober. Thus it would appear that when the state of drunkenness is such as that any civil act of the person would be void, he may still be held legally responsible for a crime like murder. Some Judges have admitted a plea of exculpation, where the crime has been committed in a state of frenzy arising from habitual drunkenness, but even this is not general. It is important to a medical jurist to know, that in those cases where the head has sustained any physical injury, as often happens with soldiers and sailors,—drunkenness, even when existing to a slight extent, produces sometimes a fit of temporary insanity, leaving the mind clear when the drunken fit is over. The law makes no distinction between this state and ordinary drunkenness, although juries occasionally show by their verdicts that some difference ought to be made ! Hallucinations and illusions are a very common effect of drunkenness, and often lead to the commission of criminal acts.

Delirium Tremens. This is a disordered state of mind which proceeds from the abuse of intoxicating liquids. Habitual drunkenness appears to be the predisposing, while abstinence from drink is the immediate existing cause. Thus, the disorder frequently does not show itself until the accustomed stimulus has been withdrawn for a certain period. It commences with tremors of the hands, and restlessness; and the individual is subject to hallucinations and illusions, sometimes of a horrible kind, referring to past occupations or events. The patients are often violent, and prone to commit suicide, or murder, more commonly the former, hence they require close superintendence.

Persons labouring under this disorder, are incompetent to the performance of any civil act, unless the mind should clear

up before death. They are not responsible for criminal acts committed while they are labouring under an attack. Acquittals have even taken place on charges of murder, where there was deliberation, and an apparent motive for the act. Thus, then, although this disorder is voluntarily brought on by habitual drunkenness, the law admits it as a sufficient plea of irresponsibility; while in a case of confirmed drunkenness, it rejects the plea. Why the mere circumstance of the one being a remote consequence, should create irresponsibility, and not the other, it is difficult to explain.

Somnambulism. It has been a contested question among medical jurists, how far a person should be held responsible for a criminal act perpetrated in that half conscious state which exists when an individual is suddenly roused from sleep. There is no doubt, that the mind is at this time subject to hallucinations and illusions which may be more persistent in some persons than in others; but it is difficult to suppose, unless we imagine that there is a sudden access of insanity, that an individual should not recover from his delusion, before he could perpetrate an act like murder. A trial involving this question occurred in England within the last few years. A Pedlar who was in the habit of walking about the country, armed with a sword-stick was awakened one evening, while asleep, on the high road, by a man, who was accidentally passing, seizing and shaking him by the shoulders. The Pedlar suddenly awoke, drew his sword and stabbed the man, who soon afterwards died. He was tried for manslaughter. His irresponsibility was strongly urged by his council on the ground, that he could not have been conscious of an act perpetrated in a half waking state. This was strengthened by the opinion of the medical witness. The prisoner was, however found guilty. Under such circumstances it was not un-

likely that an idea had risen in the prisoner's mind that he had been attacked by robbers and therefore stabbed the man in self-defence. It is impossible to give any general opinion relative to cases of this description; since the circumstances attending each case, will sufficiently explain how far it was likely that the crime had been committed under an illusion continuing from a state of sleep.